



**251 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-22997-2025

Date of Decision: 06.05.2025

Kuldeep Singh @ Rocky

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajdeep Singh Gill, Advocate for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.49 dated 16.04.2024, under Sections 15-C and 29 of the NDPS Act, 1985 registered at Police Station Maur, District Bathinda.

2. Succinctly facts of the case are that the police party while on patrolling on 16.04.2024 stopped a young person standing near three plastic bags. On suspicion, he was apprehended and on asking, he disclosed his name as Kuldeep Singh @ Rocky (petitioner). He was suspected to be carrying some contraband in the three plastic bags and thus, was given the offer for search. On conducting the search, 20 kg of poppy husk was recovered from each of the bag and thus, total 60 kg of poppy husk was recovered from the three bags being carried by him. He failed to produce any license regarding the possession of the same and hence, he was arrested on the spot. On registration of the FIR, investigation commenced. The samples taken were sent to the FSL. On completion of the investigation, challan was presented and on framing of the charges, learned trial Court proceeded with the trial. Petitioner approached the Court of learned Addl.



Sessions Judge, Bathinda praying for grant of bail. However, after hearing both the sides, the same was declined vide order dated 09.04.2025. Hence, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He submits that recovery as alleged from the petitioner is 60 kgs of poppyhusk including the weight of the bags, which is marginally above the commercial quantity. He submits that the petitioner is in custody since 16.04.2024. He further submits that co-accused in the present case i.e. Kala Singh has been granted regular bail by this Court vide order dated 10.03.2025 passed in **CRM-M-2007-2025**. He submits that though the petitioner is involved in one more case, however, he is on bail in the same. He submits that in the overall facts and circumstances of the present case, the petitioner deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was arrested on spot and recovery of 60 kgs of poppyhusk was effected from him, which falls under the commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted. However, he has endorsed the factum of grant of bail to the co-accused of the petitioner as stated above. He has submitted that out of total 13 prosecution witnesses, no witness has been examined. He has placed on record the custody certificate of the petitioner and has submitted that the petitioner is involved in one more case.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 16.04.2024. Co-accused, namely, Kala Singh has been granted regular bail by this Court



vide order dated 10.03.2025. The alleged recovery effected from the petitioner is marginally above the commercial quantity. Out of total 13 prosecution witnesses, no witness has been examined. Though the petitioner is involved in one more case, however, he is on bail in the same.

6. As held by the Hon'ble Supreme Court in ***Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260***, this Court is of the opinion that the case of the petitioner is covered by the ratio of law laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

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21it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

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23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³).



Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

9. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

10. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

06.05.2025

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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No