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

**CRM-M No.23263 of 2025
Date of Decision: 06.05.2025**

Vajeer Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Kamal Narula, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.34, dated 30.09.2023, under Sections 21(c), 29 of NDPS Act, registered at Police Station State Special Operation Cell, Fazilka (Annexure P-1). Further prayer has been made for granted interim relief to the petitioner during the pendency of the present petition.

2. Succinctly facts of the case are that the police party while on patrolling on 30.09.2023, received a secret information to the effect that Karnail Singh @ Gurmej Singh @ Joji (petitioner), Vajeer Singh (petitioner) and Bohar Singh were indulging in smuggling of Heroin and they were having relations with Pakistani smugglers. It was informed that they got the Heroin from the Pakistani smugglers and used to supply to



Indian smugglers. It was also informed that they are coming on a motorcycle and if the barricading is laid, they could be arrested along with the contraband. On receiving the information reliable, FIR was registered and barricading was laid by the police. On lying the barricading, the persons as disclosed were seen coming on a motorcycle and they were stopped. On asking, they disclosed their names as informed in the secret information. On conducting the search of co-accused Bohar Singh, 254 grams of Heroin was recovered whereas from the search of co-accused, Karnail Singh, 400 grams of Heroin was recovered. The recovery effected from the petitioner is also 400 grams of Heroin. They failed to produce any license regarding possession of the same and thus, were arrested on the spot. On registration of the FIR, investigation commenced. Petitioner approached the learned Judge, Special Court, Fazilka praying for grant of bail. However, after hearing counsel for the parties, the same was declined vide order dated 12.02.2024. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in this case. He has submitted that as per the case of prosecution, FIR was registered on the basis of secret information, however, there is a violation of mandatory provisions of Section 42 of the NDPS Act. He has further submitted that there is a violation of mandatory provisions of Section 50 of the NDPS Act as well. To buttress his arguments, he has submitted that similarly situated co-accused, namely, Bohar Singh and Karnail Singh @ Gurmej Singh @



Joji, who were also arrested on the spot have already been enlarged on bail vide orders dated 03.04.2025 and 25.03.2025, passed in CRM-M No.11610 of 2024 and CRM-M No.24890 of 2024, respectively. He has submitted that the petitioner is not involved in any other case. He submits that the petitioner is behind bars since the date of his arrest, i.e. 30.09.2023, however, prosecution has not been able to conclude the trial till date. He has submitted that case of the petitioner is at par with the co-accused, who have been granted bail by this Court and thus, in the overall facts and circumstances of the case, petitioner deserves to be granted bail.

4. Custody certificate of the petitioner dated 05.05.2025 has been filed by learned State counsel today in the Court and the same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

5. Learned State counsel has opposed the submissions made by counsel for the petitioner. He, on instructions, has submitted that the petitioner was specifically named in the secret information and thus, by due compliance of Sections 42 and 50 of the NDPS Act, the search of the petitioner and the co-accused was conducted. The contraband recovered from the petitioner was found to be 400 grams of Heroin which falls under the commercial quantity and thus, the provisions of Section 37 of the NDPS Act are attracted. He, on instructions, has submitted that out of 13 prosecution witnesses, 03 have been given up, 03 witnesses have been examined and 07 remained to be examined. He submits that the petitioner is not involved in any other case.



6. Heard.

7. After hearing counsel for the parties and perusing the record, it is apparent that the FIR in the present case has been registered on the basis of secret information received by the investigating agencies. Recovery effected from the petitioner is 400 grams of Heroin. Co-accused, Bohar Singh and Karnail Singh @ Gurmej Singh @ Joji from whom 254 grams and 400 grams of Heroin was recovered have been granted regular bail. Needless to say that the contraband recovered from the petitioner is also falls within the commercial quantity. Custody certificate produced would show that petitioner has suffered incarceration of 01 year 07 months 02 days. The petitioner is not involved in any other case.

8. 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 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.'*

9. This Court would refrain itself from commenting anything on the merits of the case. The petitioner is in custody since the date of his arrest i.e. 30.09.2023 and co-accused, namely, Bohar Singh and Karnail Singh @ Gurmej Singh @ Joji, whose case is stated to be at par with the petitioner, have already been granted bail by this Court vide orders dated 03.04.2024 & 25.03.2025, respectively. The petitioner is not involved in any other case.

10. 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. 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 on the basis of parity as the co-accused, namely, Bohar Singh and Karnail Singh @ Gurmej Singh @ Joji have already been admitted to bail by this Court as stated above.

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

06.05.2025

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**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No