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

**CRM-M No.49812 of 2025
Date of Decision: 11.09.2025**

Sukhwinder Singh @ Happy**.....Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ****Present:** Mr. Gurinder Singh Hayer, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.221, dated 04.10.2023, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25 of the Arms Act, 1959, registered at Police Station Dharamkot, District Moga.

2. Succinctly, the facts of the case are that the police party, while on patrolling on 04.10.2023, received a secret information to the effect that Sukhwinder Singh @ Happy (petitioner) and Ranjit Singh @ Gora, both are engaged in selling of intoxicant tablets. It was informed that they were traveling in a car make Swift bearing registration number PB 29AE 4398, white colour from village Lohgarh side to Dharamkot along with the illegal weapon as well and in case of barricading, they could be apprehended along with contraband and the illegal arms. On finding the secret information



reliable, raiding party was constituted and barricading was laid. The car, as disclosed in the secret information, was seen and it was signaled to be stopped. On seeing the police, the accused got perplexed and tried to escape, however, the car was got stopped by the police party. Two persons were found in the car. On asking, the person, who was driving the car, disclosed his name as Sukhwinder Singh @ Happy (petitioner) and another person sitting next to the driver's seat, disclosed his name as Ranjit Singh @ Gora. They were suspected to be carrying some contraband and thus the search was conducted. On conducting the search of the car, a black envelope placed near the gear knob of the car was found. However on conducting the search of envelope, 100 loose intoxicant tablets of Etizolam were recovered. On further search of the car, one country made pistol of .315 bore and two live cartridges were also recovered. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receiving the FSL report, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Moga praying for grant of regular bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Moga, declined the bail application filed by the petitioner vide order dated 02.05.2024. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-34259-2024, which was dismissed as not pressed vide order dated 19.09.2024. Hence being aggrieved, the petitioner is before this Court by way of filing the present second petition praying for the grant of bail.

3. It has been contended by learned counsel for the petitioner that the



petitioner has been falsely and frivolously implicated in the present case. He has submitted that the alleged recovery has been effected from a public place, however, no independent witness has been joined. He has further submitted that there is a violation of mandatory provisions of Sections 42 and 50 of the NDPS Act. To buttress his arguments, he has submitted that the petitioner is not involved in any other case under the NDPS Act and he is behind bars since the date of his arrest, i.e. 04.10.2023, however, there is no progress in the trial. He has submitted that the petitioner has completed incarceration of 01 year and 11 months. He has further submitted that co-accused of the petitioner, namely, Ranjit Singh @ Gora has already been granted bail by this Court vide order dated 07.08.2025 and thus, case of the petitioner is at par with that of the co-accused. He has thus submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the petitioner was specifically named in the secret information and he was arrested on the spot. Recovery has been effected from the car in which he was travelling. He further submits that recovery of 100 loose tablets, containing 13 grams Etizolam and one country made pistol of .315 bore and two live cartridges were effected from the petitioner, which falls under the commercial quantity, and thus, the provisions of Section 37 of NDPS Act are attracted. On instructions, she submits that out of total 15 prosecution witnesses, only 02 have been examined till date. She has endorsed the fact that the co-accused of the petitioner has already been granted bail by this Court vide order dated 07.08.2025.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record,



it is deciphered that FIR has been registered on the basis of the secret information. The petitioner is behind bars since 04.10.2023. Out of total 15 prosecution witnesses, only 02 have been examined so far. Recovery effected from the petitioner and co-accused falls under the category of commercial quantity. Co-accused of the petitioner has already been granted bail by this Court vide order dated 07.08.2025.

7. 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.’

8. 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. Thus, keeping in view the arguments raised by both the sides, 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 on parity.

9. 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.

11.09.2025

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(RAJESH BHARDWAJ)
JUDGE

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