



CRM-M-647-2025

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

CRM-M-647-2025

Date of Decision: 16.01.2025

Ravi Kumar @ Gogly

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajiv Joshi, Legal Aid Counsel for the petitioner.
Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present third petition praying for granting him regular bail in case FIR No.155 dated 21.08.2018 under Sections 22/61/85 of NDPS Act, 1985, registered at Police Station Lehra, Sangrur.

2. As per the facts of the case, on 21.08.2018, the Police party while on patrolling spotted a Ford Figo white colour car. On giving signal, the same was stopped. Three young persons were found to be sitting in the car. On asking, the driver of the car disclosed his name as Varinder Singh @ Bunty, the person sitting with the driver disclosed his name as Ravi Kumar alias Ganguli (petitioner) and third person sitting on the rear seat disclosed his name as Sachin Kumar. All the three persons were asked to debark the car and thereafter, underneath boot space of the car was search. On the search, 32 plastic vials of intoxicating medicine were found. All the three inmates failed to produce any licence for the possession of the same and hence, FIR was registered and they were arrested on the spot. On the



registration of the FIR, the investigation commenced. Samples taken were sent to the FSL. During the investigation, to await the FSL report, the petitioner was granted interim bail by learned Special Court. However, after the FSL report was received, he was taken into custody. Thereafter, he approached the Court of learned Judge Special Court, Sangrur praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 04.09.2019. Thereafter, the petitioner approached this Court twice praying for grant of regular bail, however, both the petitions filed were dismissed vide orders dated 30.09.2020 and 09.12.2021. Hence, again the petitioner approached this Court praying for grant of bail by way of filing the present third petition.

3. It has been vehemently contended by learned legal aid counsel for the petitioner that petitioner has been falsely and frivolously implicated in this case. He has submitted that the petitioner has been victimized by the Investigating Agency as he has falsely involved in other cases as well. He submits that as per case of the prosecution, there are three accused in the present case, out of which one accused, namely, Sachin Kumar died during the trial, whereas, second co-accused Varinder Singh @ Bunty is on bail. He submits that the petitioner is behind bars in the present case from the last more than five years, however, the trial has not been concluded till date. He submits that there is no independent witness has been joined by the Police. He has vehemently contended that dehors the merits of the case, custody of the petitioner itself entitles him for the grant of bail. He, thus, 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 is a habitual offender, who is involved in six other cases under the Excise Act and one under the NDPS Act. He submits that the contraband recovered as per FSL report, was found to be of commercial quantity and thus, provisions of Section 37 of the NDPS Act, are attracted. He submits that all the 14 prosecution witnesses have already been examined and the case is now fixed for defence witnesses.

5. Learned legal aid counsel for the petitioner has opposed the submission of learned State counsel and has submitted that the petitioner is a poor person and has no defence witness to be examined. However, co-accused, who is already on bail, is the only his defence witness. He submits that it is because of the same, the petitioner is languishing in the jail from the last more than five years.

6. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was arrested in the present case on 21.08.2018. As per custody certificate, his total custody as on date is 5 years 01 month 16 days.

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 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 trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. The Hon'ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya



@ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

9. The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India. Though the petitioner is involved in 8-9 other cases, however, the same cannot be a ground for non-consideration of his bail, specially when co-accused is already on bail.

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. 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.

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.

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

16.01.2025

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Whether Speaking/Reasoned :

Whether Reportable

Yes/No

: Yes/No

(RAJESH BHARDWAJ)

JUDGE