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

**CRM-M No.1970 of 2025
Date of Decision: 23.09.2025**

Lavkesh Kumar**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Aditya Sanghi, Advocate and
Mr. Himanshu Garg, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

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.0283, dated 12.08.2024, under Sections 22-C of NDPS Act, 1985, registered at Police Station Adampur, District Hisar.

2. Succinctly the facts of the case are that the police party, while on patrolling on 12.08.2024, received a secret information to the effect that Lavkesh Kumar (petitioner) is involved in selling the intoxicant tablets. It was informed that he was waiting for his customers at Siswal road and in case of raid, he could be apprehended along with the contraband. On receiving the secret information, the raiding party was constituted and reached the place as disclosed in the secret information. They found that one person was standing there and thus, he was



apprehended. On asking, he disclosed his name as Lavkesh Kumar (petitioner). He was suspected to be carrying some contraband and thus on giving the offer, his search was conducted. On conducting the search of right pocket of his trouser, a black coloured polythene was recovered. However, on the search of the polythene bag, 15 strips of Lomotil (each tablet weighing 6.32 grams) was recovered, which in total was found to be 900 tablets. He failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and he was arrested on the spot. The samples taken were sent to the FSL. On receipt of the FSL, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Hisar praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Hisar declined the bail application filed by the petitioner vide order dated 20.12.2024. Hence being aggrieved, the petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that the case of prosecution is based on the secret information, however there is a blatant violation of mandatory provisions of Section 42 of NDPS Act. He has submitted that the alleged recovery is also effected from the person of the petitioner, i.e. from the pocket of his trouser, however there is a violation of mandatory provisions of Section 50 of NDPS Act as well. He has submitted that the recovery has been effected from the public place, however there is no independent



witness has been joined. He has submitted that the petitioner has been shown to be falsely arrested in the present case, hence, the petitioner filed a complaint and regarding the same, the departmental action has already been initiated against the official, namely, ASI Ram Mehar. He has submitted that the petitioner though, was falsely implicated in one more case, however he is on bail in that case. He has submitted that in the facts and circumstances, it is apparent that the petitioner has been falsely roped in the present case. He has submitted that the petitioner is behind bars for last more than 01 year, however there is no progress in the trial till date and thus, the right of speedy trial of the petitioner has been miserably defeated. He has submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the recovery effected from the petitioner is of 900 tablets of Lomotil and as per the FSL report, it contained 94.52 grams of Diphenoxylate Hydrochloride Atropine Sulphate, which is commercial in nature, and thus, the provisions of Section 37 of NDPS Act are attracted. He has submitted that there is no violation of any provision of NDPS Act in effecting the recovery from the petitioner. He, on instructions, has submitted that out of total 12 prosecution witnesses, no witness has been examined till date. He has produced custody custody certificate of the petitioner today in the Court and the same is taken on record.

5. Heard.

6 On hearing learned counsel for the parties and perusing the record, it is deciphered that the FIR has been registered on the basis of



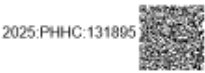
secret information. The recovery effected from the petitioner is 900 intoxicant tablets of Lomotil containing 94.52 grams of Diphenoxylate Hydrochloride Atropine Sulphate, however the commercial quantity is above 50 grams. Custody certificate produced would show that the petitioner has completed incarceration of 01 year, 01 month and 10 days as on 22.09.2025. It further reflects that the petitioner is involved in one more case, however he is on bail in that case. Out of total 12 prosecution witnesses, no witness has been examined so far.

7. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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.

20. xxxxx

21.it 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.

22. xxxxx

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. The trial of the case will take sufficiently long time.

9. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed. 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.

23.09.2025

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Whether speaking/reasoned
Whether reportable

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Yes/No
Yes/No

(RAJESH BHARDWAJ)
JUDGE