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

**CRM-M No.6910 of 2025
Date of Decision: 02.09.2025**

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

Present :- Mr. Parvesh Kumar Banwal, Advocate
for the petitioner.

Ms. Diya Sodhi, Sr. DAG, 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.259, dated 27.06.2024, under Sections 22(c), 29 of NDPS Act, 1985, registered at Police Station Sector 17, HUDA, Jagadhri, District Yamunanagar.

2. Succinctly the facts of the case are that the police party, while on patrolling on 27.06.2024, received a secret information to the effect that Dinesh Kumar @ Poni (petitioner) was involved in selling the narcotic capsules. It was informed that he was to go on his black pulsar motorcycle from Yamunanagar towards Jagadhri to sell the capsules and if the barricading is laid, he could be arrested along with the contraband. On receiving the secret information, the raiding party was constituted and



they laid the barricading at the place disclosed. The person coming on the motorcycle was seen and he was stopped. On asking, he disclosed his name to be Dinesh Kumar @ Poni. He was suspected to be carrying some contraband in the polythene, which was kept on the tank of motorcycle and thus, the search was conducted. On conducting the search, 648 capsules mark SpasoNof-Nf were recovered from him. He failed to produce any licence regarding the conscious possession of the same, thus the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of the FSL, the challan was presented and on framing the charge, the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Yamuna Nagar praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Yamuna Nagar declined the bail application filed by the petitioner vide order dated 21.01.2025. 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 implicated in the present case. He has submitted that the case of prosecution is based on secret information, however there is a violation of mandatory provisions of Section 42 of NDPS Act. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act as well in conducting the search of the alleged polythene. He has submitted that the petitioner has no criminal antecedents and he is behind bars since the date of his arrest, i.e. 27.06.2024. He has submitted that in all there are total 03 accused and rest



of two are already on bail. He has submitted that false implication of the petitioner is writ large and despite his custody of 01 year, there is no progress in the trial as the official witnesses are intentionally not appearing before the learned trial Court to prolong the incarceration of petitioner. 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. She has submitted that the petitioner was specifically named in the secret information. She has submitted that the petitioner was arrested on the spot and on conducting the search of polythene being carried by him, 648 capsules containing Tramadol, Paracetamol and Dicyclomine weighing 370.98 grams were recovered from him, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that out of total 20 prosecution witnesses, only 02 witnesses have been examined so far. She has produced on record 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 inferred that the petitioner was arrested on the spot on 27.06.2024. The alleged contraband recovered contained 370.98 grams of Tramadol, Paracetamol and Dicyclomine. Out of 20 prosecution witnesses, only 02 witnesses have been examined. Custody certificate produced would show that the petitioner has completed incarceration of 01 year, 02 months and 05 days as on 01.09.2025. Custody certificate further shows that the petitioner is not involved in any other case.



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. xxxxxx

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.

02.09.2025

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Whether speaking/reasoned
Whether reportable

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Yes/No
Yes/No

(RAJESH BHARDWAJ)
JUDGE