



CRM-M-7576-2025

-1-

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

CRM-M-7576-2025

Date of Decision: 29.04.2025

Ram Krishan @ Kishan

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Karndeeep Singh Sidhu, Advocate, for the petitioner.

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

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.93 dated 16.07.2023 under Section 22-C of NDPS Act, 1985, registered at Police Station Khuian Sarwar, District Fazilka.

2. Succinctly, facts of the case are that on 16.07.2023, the police party had laid barricade and at about 11:00 p.m., they spotted a clean shaven person coming with a kit bag. On seeing the police, he got perplexed and tried to turn back. However, on suspicion he was stopped and on asking he disclosed his named as Ram Krishan @ Kishan (petitioner). The kit bag being carried by him was searched and on conducting the search, 6500 intoxicant tablets were recovered, which on checking were found to be 4750 tablets of Tramadol Hydrochloride and 1750 tablets of Alprazolam. He failed to produce any licence regarding the possession of the same and thus, the FIR was registered and he was arrested on the spot. Samples taken were then sent to the FSL. On registration of the FIR, the investigation commenced. On receiving the report from the FSL, the contraband Tramadol Hydrochloride was found to be 1.615 Kgs whereas, the contraband



Alprazolam was concerned, the same found to be 175 grams and then the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Fazilka 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 10.01.2025. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that as per case of the prosecution, recovery was effected late in the night at about 11:00 p.m., however, there is a gross violation of provisions of Section 50 of the NDPS Act, as the petitioner was not given any offer under Section 50 of the NDPS Act before carrying out the search of the bag being carried by the petitioner. He submits that even if the recovery is effected from the bag being carried by the petitioner but still the Investigating Officer could not have prevented the petitioner from his right to be given offer under Section 50 of the NDPS Act. He submits that the petitioner has no criminal antecedents and he is behind bars from the date of his arrest, however, till date no witness has been examined by the prosecution and thus, his right of speedy trial is miserably defeated. He, thus, submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that two types of



contraband were recovered from the petitioner i.e. Tramadol Hydrochloride and Alprazolam and both the recoveries as per FSL report falls under the category of commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that as is evident, it was a case of chance recovery, which has been made from the bag being carried by the petitioner and thus, provisions of Section 50 of the NDPS Act are not attracted in this case. On instructions from ASI Gagandeep Singh, he submits that out of total 13 prosecution witnesses, no witness has been examined so far. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is inferred that the petitioner was arrested in the present case on 16.07.2023. As contended, the recovery was effected by the Investigating Officer only. Out of total 13 prosecution witnesses, no witness has been examined. The custody certificate reflects that he has suffered incarceration of 01 year 09 months & 10 days as on 28.04.2025. It further reflects that the petitioner has no criminal antecedents as he has never been involved in any case.

6. 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

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.

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.’

7. 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



CRM-M-7576-2025

-5-

counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. 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.

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

29.04.2025

sharmila

**(RAJESH BHARDWAJ)
JUDGE**

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No