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

1. **CRM-M-6906-2025**
Charanjit SinghPetitioner

versus

State of Punjab Respondent
2. **CRM-M-15514-2025**
Gurwinder Singh @ BabbuPetitioner

versus

State of PunjabRespondent

Date of decision : 27.03.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. J.S. Sandhu, Advocate (in CRM-M-6906-2025)
Mr. Talwinder Singh, Advocate (in CRM-M-15514-2025).
for the petitioner(s).

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

RAJESH BHARDWAJ, J. (Oral)

1. By this common order I intend to dispose of abovesaid two petitions as they have arisen out of the same FIR
2. Petitioners have approached this Court by way of filing the present petitions praying for grant of regular bail to them in case FIR No.71 dated 16.04.2023, under Section 22(C) of the NDPS Act, registered at Police Station Lambi, District Sri Muktsar Sahib, Punjab.
3. Succinctly facts of the case are that the police party while on patrolling on 16.04.2023 spotted two young persons, sitting on the road who were carrying some tablets in a transparent envelope in their hands which was clearly visible. On seeing the police, they got perplexed and



tried to escape. One of them started running however, he slipped and fell down. Both were overpowered by the police and on asking they disclosed their names as Gurwinder Singh @ Babbu and Charanjit Singh @ Mappal (petitioners). They were suspected to be carrying some contraband in the envelope they were carrying and thus, the search of the envelope was conducted. On conducting the search, 80 tablets brand Etizolam were recovered. They failed to produce any license regarding the possession of the same and thus, were arrested on the spot. The investigation commenced and the samples taken were sent to the FSL. Petitioners approached the Court of learned Judge, Special Court, Sri Muktsar Sahib praying for grant of bail. However, after hearing counsel for both the sides, the same were declined vide orders dated 12.02.2024 and 05.06.2024 respectively. Hence, being aggrieved, petitioners are before this Court by way of filing the present petitions.

4. It has been submitted by counsel for the petitioners that the petitioners have been falsely and frivolously implicated in the present cases. It is submitted that the alleged recovery has been effected in the public place however, there is no independent witness joined by the police. They have submitted that there is a violation of mandatory provisions of Section 50 of the NDPS Act. It is further submitted that there is a violation of provisions of the NDPS Act in collecting the samples and sending it to the FSL Lab. It is also submitted that though the petitioners are involved in other cases as well however, in majority of the cases, they have been acquitted. Learned counsel for petitioner-Charanjit Singh in CRM-M-6906-2025 has submitted that though petitioner is involved in 07 more cases, however in 05 cases, he has been acquitted



which shows that the cases were planted upon him. It is submitted that in one case he is on bail and in another case he has completed the sentence. Learned counsel for petitioner-Gurwinder Singh @ Babbu in CRM-M-15514-2025 has submitted that petitioner is involved in 03 more cases, however, he is on bail in those cases.

5. Learned State counsel has opposed the submissions made by counsel for the petitioners. He has placed on record the status report by way of affidavit of Mr. Jaspal Singh, PPS, Deputy Superintendent of Police, Sub Division Lambi, District Sri Muktsar Sahib. He submits that the recovery has been effected on due compliance of the provisions of the NDPS Act. He submits that as per the FSL, recovery effected from the petitioners weighing 16.36 grams of Etizolam which is commercial and thus, provisions of Section 37 of the NDPS Act are attracted. He has placed on record the custody certificates. He further submits that though there are 15 prosecution witnesses however, 08 witnesses have been given up and out of remaining 07 witnesses, none has been examined so far.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioners were arrested on 16.04.2023. The recovery from the petitioners were allegedly effected from the public place. Though the recovery effected is a commercial quantity however, only one witness has been examined till date by the trial Court. Custody certificate produced by the State would show that both the petitioners have undergone actual sentence of more than 1½ years. Custody certificate of petitioner-Charanjeet Singh @ Mappal shows that he is involved in 07 other cases, however, in 05 cases he has been acquitted and in 01 case, he is on bail and in another case, he has completed the



sentence. Custody certificate of petitioner-Gurwinder Singh @ Babbu shows that he is involved in two more cases out of which in 01 cases, he has been acquitted.

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 veracity of the allegations would be assessed only after 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. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their 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.

8. Photocopy of this order be placed on the file of connected case.

27.03.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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