



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

CRM-M-8327-2025

Date of decision : 19.02.2025

Sahil Sharma

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Krishan Singh, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present fourth petition has been filed by the petitioner praying for grant of regular bail in case FIR No.149 dated 23.03.2023, under Sections 22(c), 27-A and 29 of NDPS Act, 1985, registered at Police Station Parao, Ambala Cantt., District Ambala, Haryana.

2. Succinctly facts of the case are that the police party on 23.03.2023 while on patrolling received a secret information to the effect that Puneet Singh son of Kuldeep Singh is indulged in the business of selling intoxicating injections and he was waiting near the outer gate of Ambala Cantt Bus Stand for supplying huge quantity of intoxicating injections to one of the customers. It was informed that in case of raid, he could be arrested along with the contraband. On finding the information reliable, the ruqa was sent and police party raided the disclosed place. They found a boy standing at the place specified who on asking disclosed his name as Puneet Singh @ Mani son of Kuldeep Singh. On suspicion, he was given offer to be searched. On conducting the search, 70 injections were recovered from him. He failed to produce any license regarding the



possession of the same and thus, was arrested on the spot for violation of the provisions of Section 22 of the NDPS Act. On registration of the FIR, investigation commenced. The samples taken were sent to the FSL. On receipt of the FSL, contraband recovered was found to be containing Buprenorphine Injections, total weighing 140 ml. Petitioner approached the Court of learned Additional Sessions Judge, Ambala praying for grant of bail however, after hearing counsel for both the sides, learned Additional Sessions Judge, Ambala declined the same vide order dated 21.09.2023. Thereafter, petitioner approached this Court thrice by way of filing petition for regular bail however, the same were declined. Hence, petitioner is before this Court by way of filing the present fourth petition.

3. It has been submitted by counsel for the petitioner that neither petitioner is named in the FIR nor any recovery has been effected from him. He submits that petitioner has been arrayed as an accused on the basis of disclosure statement that the contraband recovered from co-accused Puneet Singh was to be supplied to petitioner. He further submits that the disclosure statement of co-accused is not even an admissible evidence. He submits that petitioner is behind bars since 17.05.2023. He submits that though petitioner is involved in other cases as well however, he is on bail in those cases. Thus, he submits that petitioner deserves to be granted regular bail.

4. Learned State counsel, however, has opposed the submissions made by counsel for the petitioner. He submits that from co-accused quantity recovered is of commercial quantity and hence, provisions of Section 37 of NDPS are attracted. He has placed on record the custody certificate and has submitted that petitioner is a habitual offender. It is



submitted that out of 28 prosecution witnesses, 20 witnesses have already been examined. He submits that out of 06 accused, 04 accused are on bail.

5. After hearing counsel for the parties and perusing the record, it is deciphered that from co-accused of the petitioner, Puneet Singh, quantity weighing 140 ml was recovered. Petitioner was arrested on 17.05.2023. Custody certificate placed on record would show that petitioner has completed incarceration of 01 year 09 months as on 18.02.2025. Though petitioner is involved in other cases as well however, he is stated to be on bail in those cases. The majority of the material witnesses already stand examined.

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 petitioners is covered by the ratio of law laid down by the Hon'ble Supreme Court. In this 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.

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.

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 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 petitioner succeeds in making out a case for grant of regular bail. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.02.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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