



CRM-M-9151-2025

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**115+223 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****CRM-M-9151-2025 (O&M)**

Date of Decision: 04.11.2025

Mohd Ashraf @ Babbu

..... Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Ms. Kamlesh, Advocate, for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

**Rajesh Bhardwaj, J. (ORAL)****CRM-43857-2025**

Allowed as prayed for. Annexures P-9 to P-11 are taken on record.

**Main case**

1. Petitioner has approached by way of filing the present third petition praying for grant of regular bail in case FIR No.29 dated 12.03.2023 under Section 21 of NDPS Act, 1985 registered at Police Station City-II Malerkotla, District Malerkotla.

2. Succinctly, facts of the case are that on 12.03.2023, while the police party was on patrolling, a secret information was received to the effect that Mohammad Amjad @ Naag and Mohammad Ashraf (petitioner) son of Mohammad Sharif Chibba are involved in selling chitta (Heroin). It was informed that both of them are present in an open place on their motorcycle on the backside of Mama Ji Mosque for selling chitta. In case of raid, they could be arrested alongwith the contraband. On receiving secret information, a raiding team was constituted and reached the place as disclosed and two persons along with their motorcycle were found present.



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Both of them were apprehended and on asking they disclosed their names to be Mohammad Amjad @ Naag and Mohammad Ashraf (petitioner). They were suspected to be carrying some contraband and thus search was conducted. On conducting search, 260 grams of Heroin was recovered. They failed to produce any license regarding the same and thus, they both were arrested on the spot. Investigation commenced. Samples were taken and sent to the FSL. On receiving the FSL report, challan was presented and after framing of charges, trial commenced. Petitioner approached learned Special Court, Malerkotla for grant of bail, however, finding no merit, the same was declined after hearing both the sides by learned Court vide order dated 27.06.2023. Earlier, the petitioner approached this Court twice by way of filing CRM-M-52083-2023 and CRM-M-27133-2024, however, the same were dismissed as withdrawn on vide orders dated 18.10.2023 and 09.09.2024, respectively. Hence, the petitioner has again approached this Court by way of present third petition praying for the grant of regular bail.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail to the petitioner on the basis of parity with that of the co-accused, namely, Mohammad Amjad @ Naag. He has drawn the attention of this Court to the order dated 02.09.2025, passed in **CRM-M-47332-2025**, whereby, co-accused Mohammad Amjad @ Naag has been granted regular bail by this Court. He submits that the petitioner is behind bars since 12.03.2023. He submits that on the basis of the parity, the petitioner deserves to be granted bail as the case of the petitioner is similar to that of the said co-accused, who has already been granted bail.



4. Learned State counsel has endorsed the factum of grant of bail to the co-accused of the petitioner as stated above and has not denied that the petitioner is at par with the co-accused, namely, Mohammad Amjad @ Naag. On instructions, he has submitted that out of total 20 prosecution witnesses, 01 witness has been examined.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 12.03.2023. Co-accused, namely, Mohammad Amjad @ Naag is on bail and the case of the petitioner as stated is at par with him. As submitted before this Court, the petitioner has completed incarceration of about more than 2½ years. Only one witness out of total 20 prosecution witnesses, has been examined till date. Speedy trial is the fundamental right of every accused.

6. The trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. The Hon'ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

*“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”*

7. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a

crime may be, an accused has the right to speedy trial under the Constitution of India.

8. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner on the basis of parity. 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.

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

04.11.2025

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No