



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

(224)

CRM-M-8770 of 2025(O&M)

DATE OF DECISION: 21.04.2025

Gurjit Singh @ Monu

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present Mr.Lovepreet Singh Sidhu, Advocate,
for Mr. Harprety Maini, 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 him regular bail in case FIR No.251 dated 05.12.2022, under Sections 22/61/85 of NDPS Act, registered at Police Station City South Moga, District Moga.

2. Succinctly the facts of the case are that the FIR in the present case was registered on 05.12.2022 on the allegations that police party headed by ASI Harbans Singh were going from Vishvkarma Chowk Main Bazar towards Sandhuan Wala Road, in connection with patrolling and checking of suspected persons. When the police party reached 300 meters ahead from Vishvkarma Chowk, one person was seen standing at T-point who on seeing the police party got perplexed and tried to turn back after throwing away one polythene envelop on the earth after taking out the same from right pocket of his lower. On suspicion, he disclosed his identity as Gurjit Singh @ Monu. He was suspected to be carrying some contraband in the black



coloured polythene bag, which he had thrown. He was given an offer to be searched of him. On search of the same, 320 loose intoxicant tablets were recovered from him. As the accused-petitioner failed to produce any licence regarding having the same, FIR was registered against him and he was arrested on spot. The samples of intoxicant tablets were sent to the FSL. The petitioner approached the Court of Ld. Special Judge, Moga for grant of bail, however, after hearing both the sides, his application was declined by the trial Court vide order dated 12.10.2023. Hence, the petitioner has approached this Court prayed that benefit of regular bail may kindly be extended in favour of the petitioner.

3. Counsel for the petitioner has vehemently contended that petitioner has been falsely implicated in the present case. He submits that the alleged recovery has been effected from the bag immediately thrown by the petitioner. It has been submitted that the alleged recovery has been effected from the public place, however, no independent witness has been joined. He further submits that Section 50 of the NDPS Act, as well was not complied with in conducting the search of the petitioner. He submits that the petitioner has no criminal antecedents and he is behind the bars for the last more than two years. However, prosecution has not been able to conclude the trial till date. He submits that the petitioner has no criminal antecedent as he has not been involved in any other criminal case. He thus, submits that the petitioner deserves to be granted bail.

4. Reply, by way of short affidavit of Ravinder Singh, PPS, Deputy Superintendent of Police (Ciry), Moga, District Moga along with custody certificate of the petitioner has been produced by learned State counsel in Court today is taken on record. Learned State counsel has



opposed the submissions made by learned counsel for the petitioner and has submitted that on the due compliance of Section 50 of the NDPS Act, the recovery has been effected from the petitioner. He submits that 100 loose tablets of Etizolam were recovered, which as per the FSL report, containing 13.8 gms of the contraband, which falls under the commercial quantity, under the provisions of NDPS Act. He submits that out of thirteen, five prosecution witnesses have been examined and six have been given up. He has submitted that 100 tablets recovered of Etizolam, is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in the present case. On instructions, he submits that the petitioner is not involved in any other case except the present case. He submits that the investigation is already completed and the challan has been presented.

5. Heard.

6. After hearing counsel for the parties and perusing the record, it is stated that the petitioner was arrested on 05.12.2022. The contraband allegedly recovered from the petitioner found to be containing 100 tablets of Etizolam, which weighed 13.8 gms. The custody certificate produced would show that the petitioner has suffered incarceration of two years, four months and thirteen days as on 19.04.2025. Custody certificate further reflects that he is not involved in any other case and till date, the trial is going on. 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 counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.



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

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.

21.04.2025
mamta

(RAJESH BHARDWAJ)
JUDGE

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