

CRM-M No.9509 of 2025
CRM-M No.2653 of 2025
CRM-M No.42063 of 2025

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2025.PHHC.130889



229 (3 cases)

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

Gulshan Kumar **CRM-M No.9509 of 2025** **.....Petitioner**

versus

State of Haryana **..... Respondent**

Raj Kumar **CRM-M No.2653 of 2025** **..... Petitioner**

versus

State of Haryan **..... Respondent**

Sahil **CRM-M No.42063 of 2025** **..... Petitioner**

versus

State of Haryana **..... Respondent**

Date of decision: 22.09.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Karnail Singh Ahhi, Advocate
for the petitioner in CRM-M Nos.9509 of 2025.

Mr. Sahil Choudhary, Advocate
for the petitioner in CRM-M-2653-2025.

Mr. Sahil Goel, Advocate (through VC)
for the petitioner in CRM-M-42063-2025.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. By this order, I dispose of the above mentioned three petitions arising out of the same FIR.



2. All the petitions have been filed praying for the grant of regular bail to the petitioners in case bearing FIR No.153, dated 07.07.2024, under Sections 21-C, 29-61-85 of NDPS Act, registered at Police Station Farakpur, District Yamunan Nagar.

3. Succinctly the facts of the case are that the police party while on patrolling on 07.07.2024, received a secret information to the effect that Sahil son of Baldev, Gulshan son of Jai Kumar and Raj Kumar son of Kripal (inadvertently written as Gulshan son of Kripal) were involved in selling of the heroin. It was informed that they would bring heroin from Uttar Pradesh on their splendor motorcycle and if the barricading is laid at Madebar-Harnoul road, then they could be apprehended along with the contraband. On receiving the secret information, the raiding party was constituted and the barricading was laid at the place disclosed. A motorcycle was seen, on which three boys were coming. They were stopped by the police. On asking, the driver of the motorcycle disclosed his name as Gulshan (petitioner in CRM-M-9509-2025), whereas the person sitting in the middle of motorcycle, disclosed his name as Raj Kumar (petitioner in CRM-M-2653-2025) and the person sitting on the last, disclosed his name as Sahil (petitioner in CRM-M-42063-2025). Sahil was carrying a bag and thus they were suspected to be carrying some contraband. On giving the offer, search was conducted. On conducting the search of the bag being carried by Sahil, 269.760 grams of heroin was recovered. All three boys failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and all



were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of FSL report, the challan was presented and on framing of charges, the trial commenced. All the petitioners approached the Court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhri praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri declined the bail applications filed by all the petitioners vide orders dated 09.10.2024, 23.12.2024 and 15.04.2025, respectively. Hence being aggrieved, the petitioners are before this Court by way of filing the present petitions praying for the grant of regular bail.

4. Learned counsels for the petitioners have submitted that the petitioners have been falsely implicated in the present case. They have submitted that the FIR has been registered on the basis of secret information, however there is a violation of mandatory provisions of Section 42 of NDPS Act. They have submitted that the alleged recovery has been effected from the public place, but no independent witness has been joined. They have submitted that the alleged recovery has been effected in violation of mandatory provisions of Section 50 of NDPS Act and thus, the false implication of the petitioners is writ large. They have submitted that the petitioners are behind bars since the date of their arrest, i.e. 07.07.2024, but the prosecution witnesses are intentionally avoiding their appearance to prolong the incarceration of the petitioners. Learned counsel for the petitioner (in CRM-M-9509-2025) has submitted that the



petitioner, namely, Gulshan is involved in one other case registered under the IPC, even otherwise all the petitioners have no criminal antecedents as they have never been involved in any other case of the similar nature. To buttress their arguments, learned counsel for the petitioners have submitted that as per the provisions of NDPS Act, the contraband above 250 grams is commercial in nature, whereas the alleged recovery from the petitioner, namely, Sahil (in CRM-M-42063-2025) is 269.760 grams of heroin, which is marginally higher than the commercial quantity. They have submitted that the speedy trial of the petitioners is miserably defeated. He has submitted that in the facts and circumstances, all the petitioners deserve to be granted bail.

5. *Per contra*, learned counsel for the State however has vehemently opposed the submissions made by counsel for the petitioners. He has submitted that all the petitioners were specifically named in the secret information. He has submitted that on receiving the secret information, the recovery was effected on due compliance of provisions of NDPS Act. He has submitted that the contraband recovered from the petitioner, namely, Sahil (in CRM-M-42063-2025) is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He, on, instructions from PSI Rajat Kumar, has submitted that out of total 22 prosecution witnesses, none has been examined so far. He has produced custody certificates of all the petitioners today in the Court and the same are taken on record.

6. Heard.



7. After hearing learned counsel for the parties and perusing the record, it is deciphered that the present FIR has been registered on the basis of secret information. The alleged recovery effected in the present case is 269.760 grams of heroin, which falls under the category of commercial quantity. Out of total 22 prosecution witnesses, none has been examined so far. Custody certificates of the petitioners produced would show that the petitioners has completed the incarceration of about 01 year, 02 months and 12 days as on 22.09.2025. Custody certificate of the petitioner, namely, Gulshan Kumar (in CRM-M-9509-2025) produced would show that the petitioner is involved in one more case under the IPC, however he is on bail in that case. Custody certificate of the petitioner, namely, Raj Kumar (in CRM-M-2653-2025) produced would show he is not involved in any other case. Whereas the petitioner, namely, Sahil (inCRM-M-42063-2025) produced would show that he is involved in 02 other cases, however he in on bail in those cases.

8. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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

21.it 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.”*

9. 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.

10. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioners succeed in making out a case for the grant of bail. Accordingly, all the petitions are allowed and the petitioners, namely, Gulshan, Raj Kumar and Sahil 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.

22.09.2025

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Whether speaking/reasoned
Whether reportable

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:

Yes/No
Yes/No

(RAJESH BHARDWAJ)
JUDGE