



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

CRM-M-9590-2025

Date of decision : 24.02.2025

Akashdeep @ Vikas

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Prateek Pandit, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court praying for grant of regular bail to him in case FIR No.98 dated 02.04.2020, under Sections 21, 22, 29, 31 of NDPS Act, 1985 (offences under Sections 21, 29, 31 of NDPS Act added later on), registered at Police Station City Kapurthala, District Kapurthala.

2. Succinctly facts of the case are that the police party while on patrolling on 02.04.2020 stopped a clean shaven person coming on foot and on seeing the police, he started turned back and started running. On suspicion, the police chased him however, while running he threw a plastic bag from the left pocket of his trousers. Thereafter, he was apprehended with the help of other police officials. On asking, he disclosed his name as Mandeep Singh @ Mota son of Mohinder Singh. The plastic bag thrown by him was searched and 11 injections (02 ML each) containing Buprenorphine total weighing 22 ML was recovered from the same. He failed to produce any license regarding the possession of the same and thus, the FIR was registered and petitioner was arrested on the spot. On registration of the FIR, investigation commenced. During investigation, on 03.04.2020, he made a disclosure statement about the involvement of co-accused namely, Himanshu



who was arrayed as an accused. Thereafter, on disclosure statement of Himanshu recorded on 06.04.2020, the complicity of the petitioner surfaced in the case and thus, petitioner was also arrayed as accused. As the petitioner was behind bars and hence, he was arrested in this case on production warrants on 23.01.2023. He approached the Court of learned Judge, Special Court, Kapurthala praying for grant of bail however, after hearing counsel for both the sides, learned Judge, Special Court declined the same vide order dated 11.11.2024. Hence, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He submits that the petitioner is involved in 07 other cases out of which, 04 cases are under the NDPS Act. He submits that it is because of his criminal antecedents, present case has been falsely planted upon the petitioner. He submits that neither petitioner was arrested on the spot nor there was any recovery effected from him. He submits that it was co-accused Mandeep from whom 22 ML of Buprenorphine injections were recovered. His first disclosure statement was recorded on 03.04.2020 wherein, he disclosed about the involvement of co-accused Himanshu. He submits that it is the second disclosure statement of co-accused Himanshu recorded on 06.04.2020 by which petitioner has been implicated in the present case. He submits that except disclosure statement of co-accused, there is no evidence against the petitioner. He further submits that both the co-accused are already on bail. He thus, submits that in the facts and circumstances of the case, petitioner deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the complicity of the petitioner duly surfaced during the investigation. He submits that petitioner is a



habitual offender who is involved in 07 other cases. It is submitted that the contraband recovered in the present case is 22 ML of Buprenorphine injections which is a commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted. He submits that out of 19 prosecution witnesses, 10 witnesses have been examined in the present case. He thus, submits that no case is made out for grant of bail against the petitioner.

5. 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.'

6. After hearing counsel for the parties and perusing the record, it is deciphered that petitioner is behind bars since 23.01.2023. Petitioner has been arrayed as an accused on the basis of disclosure statement of co-accused Himanshu which was recorded on 06.04.2020. Thereafter, he was arrested on production warrants on 23.01.2023. Out of 19 prosecution witnesses, 10 witnesses already stand examined and petitioner is involved in 07 other cases as well however, as submitted before this Court, petitioner is on bail in those cases except in one case.

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.

24.02.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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