



CRM-M-11465-2025

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

CRM-M-11465-2025

Date of decision : 24.07.2025

Vijay Kumar

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. B.S. Beniwal, Advocate
for the petitioner.

Ms. Simran Gorla, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail to the petitioner in case FIR No.094 dated 09.03.2024, under Sections 22, 29, 61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 482 IPC (now 345(3) BNS), registered at Police Station City Barnala.
2. Succinctly the facts of the case are that on 09.03.2024, the police party while on patrolling, received a secret information to the effect that Vijay Kumar, Raju, Darshan Singh @ Vicky and Jaswinder Singh @ Binder were involved in sale of narcotic pills. It was informed that all these 04 persons were waiting behind the trucks under the shed built at Anaj Mandi Barnala and if raid is conducted, they could be arrested along with the contraband. On receiving the information, the raiding party was constituted and they reached at the place as informed. The persons as informed, were found present at the place disclosed. They were apprehended and on asking they disclosed their names as disclosed by the



secret informer. They were suspected to be carrying some contraband in the bag which they were carrying on their motorcycle and the same was searched. On conducting the search, 410 loose narcotic tablets of Etizolam were recovered from the same. They failed to produce any licence regarding the possession of the same and thus, they all were arrested on the spot. On registration of FIR, investigation commenced. Samples taken from the contraband were sent to FSL. As per the FSL report, 410 tablets which were recovered, weighing 52.48 grams of Etizolam. On completion of investigation, challan was filed and on framing of charges, the trial Court commenced with the trial. The petitioner approached the learned Judge, Special Court, Barnala for grant of bail, however, after hearing both the sides, the same was declined by the learned Judge, Special Court, Barnala vide order dated 13.12.2024. Aggrieved by the same, the 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 implicated in the present case on the basis of secret information. He submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that there is violation of Section 42 of NDPS Act. He submits that compliance of Section 50 of NDPS Act, is mandatory while effecting the search, however, there is violation of the same as well. He submits that petitioner has no criminal antecedents as he has never been involved in any other case. He submits that even otherwise the petitioner has suffered incarceration of more than 01 year, however, the prosecution has not been able to conclude the trial till date. He thus, submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.



4. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the petitioner along with co-accused were specifically named in the secret information and the recovery effected was on due compliance of the provisions of Sections 42 and 50 of NDPS Act. She submits that as per FSL report, the contraband recovered weighed 52.48 grams of Etizolam, which falls under the category of commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted in the present case. She, on instructions, has submitted that out of total 18 prosecution witnesses, 06 witnesses still remains to be examined. She has produced the custody certificate of the petitioner on record.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the FIR has been registered on the basis of secret information. The petitioner was arrested on 09.03.2024. As submitted, out of total 18 prosecution witnesses, 06 witnesses still remains to be examined. As per custody certificate, the petitioner has suffered an incarceration of 01 year, 04 months and 12 days as on 23.07.2025. It further shows that the petitioner has no criminal antecedents.

6. 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.*

7. 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. 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 Court/Duty Magistrate.

24.07.2025
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(RAJESH BHARDWAJ)
JUDGE

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