

2025:PHHC:081195



214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18030-2025
Date of Decision: 08.07.2025

Deepak ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vinod Ghai, Senior Advocate and
Mr. Arnav Ghai, Advocate and
Mr. Harshit Jangra, Advocate, for the petitioner(s).

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.624 dated 30.11.2023 under Sections 22(c)/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Sohana, District Gurugram (Annexure P-1).

2. Succinctly, facts of the case are that on 30.11.2023, the police party while on patrolling, received a secret information to the effect that one Deepak (petitioner) is involved in selling intoxicant substances. He was standing at Palwal-21 road with the drugs, if a raid is conducted he could be arrested along with the contraband. On receiving the secret information, notice under Section 42 of the NDPS Act was prepared and raiding party was constituted and it reached at the place disclosed. A person of the description as disclosed was found standing at the Palwal-21 road carrying black backpack. He was suspected to be carrying some contraband and he was apprehended. After giving offer for the personal

search, the same was conducted and from the search of his black backpack bag, 100 injections of Buprenorphine Hydrochloride and 83 injections of Diazepam were recovered. He failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced and recovered substance was sent to the FSL lab and the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Gurugram praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 30.07.2024. Thereafter, the petitioner approached this Court by way of filing CRM-M-19351-2024 (Annexure P-11) and CRM-M-48899-2024 (Annexure P-12) which were dismissed as withdrawn on 09.07.2024 and 12.12.2024 . Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present third petition.

3. It has been contended by learned Senior counsel for the petitioner that the petitioner has been roped in the present case on the basis of the secret information. He submits that there is violation of mandatory provisions of the NDPS Act. He further submits that the alleged recovery has been effected from a public place, but independent witness has not been joined. He submits that personal search of the petitioner was also carried out and thus, there is violation of Section 50 of the NDPS Act as well. He submits that recovery as alleged to have been effected is totally a planted recovery. He submits that the petitioner has no criminal antecedents, as he has never been involved in any other case. He further submits that the alleged recovery from the petitioner of 100 Buprenorphine Hydrochloride injections falls under the commercial quantity. He further submits that even otherwise the alleged recovery from the petitioner of 83 Diazepam injections falls under the non-commercial quantity. He further

submits that the petitioner is not involved in any other case. It is submitted that the petitioner has completed incarceration of 01 year, 07 months and 05 days, but there is no progress in the trial. He, thus, submits that in view of 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 counsel for the petitioner. He submits that the petitioner has been specifically named in the secret information and with due compliance of Sections 42 and 50 of the NDPS Act, recovery of 100 Buprenorphine Hydrochloride injections and 83 Diazepam injections was effected from the petitioner. He further submits that as per FSL report, weight of 100 Buprenorphine Hydrochloride injections has been found 28 grams, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that out of total 19 prosecution witnesses, only one witness has been examined so far. He has placed on record the custody certificate of the petitioner. He further submits that there are two other co-accused in the present case but they are already on bail.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the present FIR has been lodged on the basis of the secret information. Recovery allegedly effected from the petitioner is commercial one. Out of total 19 prosecution witnesses, only one witness has been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 01 year 07 months & 05 days as on 07.07.2025. It further reflects that the petitioner has no criminal antecedents.

6. 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

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.

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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Thus, 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.

8. 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.

08.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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