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

**CRM-M No.18050 of 2025
Date of Decision: 11.09.2025**

Balwinder Singh @ Babu**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Abdul Aziz, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present third petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.226, dated 23.09.2022, under Sections 22-C, 21-B, 25, 27 of NDPS Act, registered at Police Station Special Task Force, District Bathinda.

2. Succinctly the facts of the case are that the police party, while on patrolling on 23.09.2022, saw a person sitting under the Banyan tree, who, on seeing the police, got perplexed and tried to run away. However, he was apprehended and on asking, he disclosed his name to be Balwinder Singh @ Babbu (petitioner). He was suspected to be carrying some contraband in the transparent plastic envelope being carried by him and thus, the same was searched. On conducting the search of the envelope, 5 grams of heroin and 1500 tablets were recovered, out of which, 1200



tablets were of Alprazolam and 300 tablets were of Tramadol. He failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and he was arrested on the spot. The samples taken were sent to the FSL. On receipt of the FSL report, the contraband recovered was found to be 155.064 grams of Alprazolam and 113.553 grams of Tramadol. Thereafter the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Bathinda praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Bathinda declined the bail application filed by the petitioner vide order dated 16.11.2022. Being aggrieved, the petitioner earlier approached this Court twice by way of filing CRM-M-38231-2023 and CRM-M-34310-2024, however the same were dismissed as withdrawn vide order dated 10.08.2023 and 24.07.2023, respectively. Hence being aggrieved, the petitioner is again before this Court praying for the grant of bail by way of filing the present third petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that the contraband allegedly recovered from the petitioner has been planted upon him. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act in conducting the search. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 23.09.2022 and thus has completed incarceration of about 03 years, however till date, the trial is not concluded. He has submitted that though the petitioner has been falsely implicated in other cases, however he is on bail in those cases. He has submitted that the right of



speedy trial of the petitioner has been miserably defeated in the present case. He has submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was found to be in possession of intoxicant tablets and as per the FSL, the quantity recovered was commercial in nature, hence the provisions of Section 37 of NDPS Act are attracted. He has submitted that the petitioner is involved in other cases as well. He, on instructions, has submitted that out of 19 prosecution witnesses, 08 witnesses still remain to be examined. He has placed on record custody certificate of the petitioner today in the Court and the same is taken on record.

5. Heard.

6 On hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested in the present case on 23.09.2022. Recovery effected in the present case falls under the category of commercial quantity. Custody certificate produced would show that the petitioner has completed incarceration of 02 years, 10 months and 08 days as on 10.09.2025. It further reflects that the petitioner is involved in other cases as well, however in 04 of the cases, he is on bail, in one case, he has been acquitted and in one case, he has completed the sentence. Needless to say that the every accused has the right of speedy trial.

7. 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.”

8. The Hon’ble Supreme Court in *Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695* has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

9. The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in ‘**Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024**’, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

10. 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.

11. 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. 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.

11.09.2025

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Whether speaking/reasoned

Whether reportable

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Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE