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

CRM-M-19437-2025

Date of decision : 22.04.2025

Bimla @ Bimbo**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Dr. Neha Awasthi, Legal Aid Counsel
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.384 dated 17.11.2023, under Section 22/29 of NDPS Act, 1985, registered at Police Station Tanda, District Hoshiarpur.

2. Succinctly the facts of the case are that on 17.11.2023, while the police party on patrolling, they spotted a women coming on foot from Mirjapur side. On seeing the police, she got perplexed and threw a heavy wax envelope, which was in her hand, on the ground. Being suspicious, the police official stopped her and on asking, she disclosed her name as Bimla @ Bimbo wife of Darshan Lal. She was suspected to be carrying some contraband in the said envelope which was thrown by her, thus, she was given an offer for the search of the same. On giving the offer she posed faith in the Police party itself and thus, the search of the wax envelope was conducted. On conducting the search, 570 grams of narcotic substance was recovered from that wax envelope. She failed to produce



any licence for possession of the said contraband and thus, FIR was registered and she was arrested on the spot. On registration of FIR, investigation commenced and samples taken from the contraband were sent to the FSL. On receiving the FSL report, challan was presented and on framing of charges, the trial commenced. Thereafter, the petitioner approached the Ld. Judge, Special Court, Hoshiarpur for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court, Hoshiarpur vide order dated 21.02.2025. Aggrieved by the same, the petitioner has approached this Court by way of way of filing the present petition through legal aid counsel.

3. It has been vehemently contended by counsel for the petitioner that the petitioner is a 77 years old lady, who has admittedly facing prosecution in other cases as well and it is only for this reason that she has been falsely implicated in the present case. She submits that recovery as alleged has been effected from a public place, however, no public witness has been joined by the investigation agencies. She vehemently submits that the petitioner before this Court is a women, however, the police party did not have any women police official at the time of search as alleged by the prosecution. It is submitted that not only the petitioner but her son has also been falsely implicated in the present case. It is submitted that the petitioner is behind bars from last more than 01 year, however, till date there is no progress in the trial. She submits that there is total non-compliance of mandatory provisions of Sections 42 and 50 of the NDPS Act. She, thus, submits that in the facts and circumstances of the present case, petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the



recovery effected from the petitioner is 570 grams of Tramadol Hydrochloride which is a commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted. He submits that the petitioner is a habitual offender, who is facing prosecution in 29 other cases. He has produced the custody certificate of the petitioner on record. He, on instructions, has submitted that out of total 11 prosecution witnesses, only 01 witness has been examined so far. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the recovery as alleged of 570 grams of Tramadol Hydrochloride was effected from the petitioner from a public place. Though custody certificate reveals that the petitioner is facing prosecution in multiple cases but the same itself cannot be a ground for non-consideration of bail of the petitioner, if the merits of the case in hand qualifies the petitioner for the grant of same. Out of total 11 prosecution witnesses only 01 witness has been examined so far. In the rest of the cases either the petitioner is on bail or she has been acquitted.

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



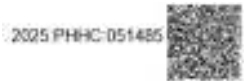
accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional 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 her furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

22.04.2025
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(RAJESH BHARDWAJ)
JUDGE

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