

2025:PHHC:087338



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

**CRM-M-20772-2025
Date of Decision: 17.07.2025**

Niyamat ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Mazlish Khan, Advocate, for the petitioner(s).

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present third petition praying for granting regular bail in case FIR No.122 dated 01.06.2017 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Pinangwan, District Nuh.

2. Succinctly, facts of the case are that on 01.06.2017, the police received a secret information to the effect that Arif, Irshad and Warshed were coming in a truck bearing registration No.HR-74-1548, which is loaded with ganja. It was informed that if barricading is done, they can be arrested with the contraband. As per information, barricading was done and a truck as informed was seen coming from Punhana side. Seeing the police party, the truck was stopped and three boys alighted from the same and they started running, however, the police party overpowered them. On asking, they disclosed their names as Arif, Irshad and Warshed. They were suspected to be carrying some contraband in the truck. On checking, 18 plastic bags were recovered and ganja was found to be contained therein. On weighing, the total weight of recovered

ganja in all found to be 624 Kg. 300 grams. They failed to produce any licence regarding possession of the same. Hence, they were arrested on the spot and on registration of the FIR, the investigation commenced. During investigation, they made disclosure statement about the present petitioner. Hence, petitioner was also arrayed as an accused. The petitioner was granted the concession of anticipatory bail by the trial Court. However, he jumped the bail and hence, he was arrested on 17.07.2023. The petitioner approached the Court of learned Additional Sessions Judge, Nuh 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 03.01.2024 (Annexure P-2). Thereafter, he approached this Court by way of filing CRM-M-48778-2023 and CRM-M-20749-2024 but the same were dismissed vide order dated 03.10.2023 (Annexure P-3) and 02.05.2024 (Annexure P-4). 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 counsel for the petitioner that the petitioner has been roped in the present case on the basis of the disclosure statement, which is not admissible evidence. Neither petitioner was named in the FIR, nor any recovery was effected from him. He submits that during trial the co-accused, who were arrested at the spot and from whom the alleged recovery of the ganja, weighing 624 kgs. 300 grams was recovered, have already been acquitted by the learned trial Court vide order dated 10.03.2025 (Annexure P-1). He submits that the petitioner is involved in other four cases, however, in three cases he is on bail and in one case he is in custody. It is submitted that the petitioner is behind bars since the date of his arrest, thus, he has completed incarceration of about 02 years. 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 is a habitual offender, however, he has not disputed the fact that co-accused from whom the alleged contraband was recovered, have already been acquitted by the trial Court. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner has been implicated in the present on the basis of the disclosure statement of the co-accused, who are already acquitted by the trial Court. The custody certificate would reflect that the petitioner has suffered incarceration of 02 years & 01 day as on 16.07.2025. It further reflects that the petitioner is involved in 04 other cases, however, in three cases he is on bail and in one case he is in custody.

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.

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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.

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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. However, if the petitioner does not furnish the bail bonds within 07 days from today, then his further custody period after one week will not be counted in this case.

9. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

17.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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