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

**CRM-M No.21943 of 2025
Date of decision : 23.05.2025**

Mohd. Yasin @ Sony**.....Petitioner**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Ms. Kamlesh, Advocate
for the petitioner.

Mr. J. S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.0138, dated 17.12.2023, under Section 20 of NDPS Act, registered at Police Station City-II Malerkotla, District Malerkotla.

2. Succinctly the facts of the case are that the police party while on patrolling on 17.12.2023 received a secret information to the effect that Mohd. Yasin @ Sony (petitioner and Mohd. Rafi were habitual in smuggling of *Sulfa*. It was informed that they bring this contraband Sulfa from outside and sell the same in Malerkotla City. It was further informed that both of them were sitting in front of the house of Mohd. Yasin @ Sony (petitioner) along with the contraband and in case of raid, they could be



arrested along with the contraband. On receiving the secret information reliable, the raiding team was constituted and the same reached at the place disclosed. 02 persons were found sitting along with a black polythene bag. On asking, they disclosed their names as Mohd. Yasin @ Sony and Mohd. Rafi. They were suspected to be carrying some contraband in the black polythene carried by them and thus the recovery of the same was conducted. On the search, 3 Kg 500 grams of Sulfa (charas) was recovered from the same. They failed to produce any licence regarding the conscious possession of the same and thus the FIR was registered and both of them were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. The petitioner approached the Court of learned Judge, Special Court, Sangrur praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Sangrur declined the petition filed by the petitioner vide order dated 25.04.2024. Being aggrieved the petitioner earlier approached this Court by way of filing CRM-M-32428-2024, which was dismissed as withdrawn vide order dated 16.07.2024. Hence being aggrieved, the petitioner is before this Court by way of filing the present second petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. She has submitted that the FIR was registered on the basis of secret information, however is no compliance of mandatory provisions of Section 42 of NDPS Act. She has submitted that the recovery has been effected from the public place, however no independent witness has been joined and thus



there is a violation of Section 50 of NDPS Act as well. She has submitted that the petitioner is behind bars since the date of his arrest, i.e. 17.12.2023, however there is no material progress in the trial and thus the right of speedy trial of the petitioner is also defeated. She has submitted that the petitioner has no criminal antecedents and thus his false implication is writ large. She has submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned counsel for the State however has opposed the submissions made by counsel for the petitioner. He, on instructions, has submitted that the secret information was received specifically against the petitioner and co-accused and thus the raid was conducted. He has submitted that the contraband *sulfa* weighing 3.5 Kg was recovered, which is a commercial quantity and thus the provisions of Section 37 of NDPS Act are attracted. He, on instructions, has submitted that out of 17 prosecution witnesses, only 02 witnesses have been partially 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. After hearing learned counsel for the parties and perusing the record, it is deciphered that FIR in the present case was registered on the basis of secret information. The alleged recovery has been effected from the public place. The petitioner is behind bars since the date of his arrest, i.e. 17.12.2023. Custody certificate produced would show that the petitioner has suffered incarceration of 01 year, 05 months and 02 days as on 22.05.2025. It further reflects that the petitioner has no criminal



antecedents as he is not involved in any other case.

7. Needless to say that the accused has a right of speedy trial. However as informed only 02 prosecution witnesses have been partially examined, out of total 17 prosecution witnesses.

8. After perusal of the order passed by the Hon'ble Supreme Court in Mohd Muslim @ Hussain vs. State (NCT of Delhi), 2023 Live Law (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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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.*

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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.'

9. 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.”

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.

11. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of 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 trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

23.05.2025			(RAJESH BHARDWAJ)
<i>rittu</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No