



235+310 (2 cases)

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

CRM-M No.25170 of 2025 (O&M)

Mithan @ Mithi

.....Petitioner

versus

State of Punjab

..... Respondent

CRM-M No.41961 of 2025

Vilsan Sandhu @ Vilson

..... Petitioner

versus

State of Punjab

..... Respondent

Date of decision: 22.09.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Shailesh Aggarwal, Advocate and
Ms. Nitika, Advocate
for the petitioner in CRM-M No.25170 of 2025.

Mr. Abhaysher Singh, Advocate
for the petitioner in CRM-M No.41961 of 2025.

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

RAJESH BHARDWAJ, J. (Oral)

CRM-19062-2025

Allowed as prayed for.



Main cases

1. By this order, I dispose of the above mentioned two petitions arising out of the same FIR.
2. Both the petitions have been filed praying for the grant of regular bail to the petitioners in case bearing FIR No.97, dated 16.09.2023, under Section 21 of NDPS Act (Section 29 of NDPS Act added later on vide DDR No.40 dated 18.09.2023), registered at Police Station Mallanwala, District Ferozepur.
3. Succinctly the facts of the case are that the police party while on patrolling on 16.09.2023, saw two persons coming on the motorcycle and on seeing the police, they got perplexed and tried to got the take the U-turn. However, on suspicion, they were apprehended. The driver of the motorcycle, disclosed his name as Mithan @ Mithi (petitioner in CRM-M-25170-2025), whereas the pillion rider disclosed his name as Vilsan Sandhu @ Vilson (petitioner in CRM-M-41961-2025). They were suspected to be carrying some contraband in the polythene bag kept in between the meter and dashboard of the motorcyle. On giving the offer, the search was conducted. On conducting the search of the polythene bag, 290 grams of heroin was recovered. They failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of FSL report, the challan was presented and on framing of charges, the trial commenced. Both the petitioners approached the Court of learned Judge, Special Court, Ferozepur praying for the grant of bail, however after



hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Ferozepur declined the bail applications filed by both the petitioners vide orders dated 21.12.2023 and 31.01.2024, respectively. Being aggrieved, the petitioner, namely, Mithan @ Mithi (in CRM-M-25170-2025) earlier approached this Court twice by way of filing CRM-M-3670-2024 and CRM-M-35495-2024 praying for the grant of bail, however the same were dismissed as withdrawn vide orders dated 07.02.2024 and 29.08.2024, respectively, whereas the petitioner, namely, Vilsan Sandhu @ Vilson (in CRM-M-41961-2025) earlier approached this Court thrice by way of filing CRM-M-15660-2024, CRM-M-43533-2024 and CRM-M-781-2025, however the same were dismissed as withdrawn vide orders dated 08.04.2024, 09.09.2024 and 16.01.2025, respectively. Hence being aggrieved, the petitioners are before this Court by way of filing the present petitions praying for the grant of regular bail.

4. Learned counsels for the petitioners have submitted that the petitioners have been falsely implicated in the present case. They have submitted that as per the case of prosecution, recovery in the present case was admittedly effected from the public place, but no independent witness has been joined. They have submitted that the alleged recovery has been effected in violation of mandatory provisions of Section 50 of NDPS Act and thus, the false implication of the petitioners is writ large. They have submitted that the alleged recovery is 290 grams of heroin, whereas the commercial quantity is above 250 grams. They have submitted that the petitioners are behind bars since the date of their arrest, i.e. 16.09.2023, but the prosecution is intentionally delaying the trial as the last witness



examined was about a year ago and thereafter, the trial is hanging fire. Learned counsel for the petitioner (in CRM-M-25170-2025) has submitted that the petitioner, namely, Mithan @ Mithi is involved in 04 other cases, however in 02 of the cases, he has been acquitted and in rest of the cases, he is on bail. Learned counsel for the petitioner (in CRM-M-41961-2025) has submitted that the petitioner, namely, Vilsan Sandhu @ Vilson is not involved in any other case. They have submitted that the speedy trial of the petitioners is miserably defeated. He has submitted that in the facts and circumstances, both the petitioners deserve to be granted bail.

5. *Per contra*, learned counsel for the State however has vehemently opposed the submissions made by counsel for the petitioners. He has submitted that the recovery effected from the petitioners is 290 grams of heroin, which falls under the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He, on instructions, has submitted that out of total 10 prosecution witnesses, 03 witnesses remain to be examined. He has produced custody certificate of petitioner, namely, Mithan @ Mithi (in CRM-M-25170-2025) today in the Court and the same is taken on record.

6. Heard.

7. After hearing learned counsel for the parties and perusing the record, it is deciphered that the alleged recovery effected in the present case is 290 grams of heroin, which falls under the category of commercial quantity. Out of total 10 prosecution witnesses, 03 witnesses still remain to be examined. Custody certificate of both the petitioners, namely, Mithan @ Mitha (in CRM-M-25170-2025) and Vilsan Sandhu @ Vilson



(in CRM-M-41961-2025) produced would show that the petitioners have completed the incarceration of 02 years and 02 days as on 21.09.2025. Custody certificate of the petitioner, namely, Mithan @ Mitha (in CRM-M-25170-2025) further reflects that the petitioner is involved in 04 other cases, however in 02 of the cases, he has been acquitted and in 02 of the cases, he is on bail. Custody certificate of the petitioner, namely, Vilsan Sandhu @ Vilson (in CRM-M-41961-2025) produced would show that he is not involved in any other case.

8. 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.”

9. 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.

10. 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 petitioners succeed in making out a case for the grant of bail. Accordingly, both the petitions are allowed and the petitioners, namely, Mithan @ Mithi and Vilsan Sandhu @ Vilson are ordered to be released on bail on their 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.

22.09.2025

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

(RAJESH BHARDWAJ)
JUDGE