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

**CRM-M No.25775 of 2025
Date of Decision: 28.11.2025**

Anoop Kumar**..... Petitioner**

Versus

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

Present: Mr. Piyush Sharma, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., 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.76, dated 03.10.2022, under Section 22 of NDPS Act (Section 29 NDPS Act added later on), registered at Police Station Sadar Abohar, District Fazilka.

2. Succinctly the facts of the case are that the police party, while on patrolling on 03.10.2022, received a secret information to the effect that Anoop Kumar (petitioner) was involved in selling the intoxicant tablets and syrup, which he brings from other States. It was informed that he would come on his motorcycle bearing registration No.PB-22-S-1103 and in case of barricading, he could be apprehended along with the contraband. On receiving the secret information, the police laid the barricading at the place as disclosed in the secret information. The motorcycle, as disclosed, was seen coming on which 01 person was



riding. He was carrying a bag on his shoulder. However, on suspicion, he was stopped by the police party. On asking, he disclosed his name to be Anoop Kumar (petitioner). He was suspected to be carrying some contraband in the bag, thus the same was searched. On conducting the search of the bag, 1200 intoxicant tablets containing Alprazolam and 10 bottles containing Chlorpheniramine Maleate & Codeine Phosphate syrup were recovered. 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. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of FSL, the tablets recovered weighed 148.6 grams of Alprazolam and 1.2 Kg of Codein Phosphate. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Fazilka praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Fazilka declined the bail application filed by the petitioner vide order dated 12.02.2024. Being aggrieved, the petitioner earlier approached this Court praying for the grant of bail by way of filing CRM-M-10773-2024, however the same was dismissed as not pressed vide order dated 06.11.2024. Hence being aggrieved, the petitioner is again before this Court by way of filing the present second petition praying for the grant of bail.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that though the FIR has been registered on the basis of secret information, however, there is a violation of mandatory provisions of

Section 42 of NDPS Act. He has submitted that the recovery has been



effected from the public place, however, no independent witness has been joined. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act as well in conducting the search. He has submitted that the petitioner is behind bars from last more than 03 years, however, the prosecution has not been able to conclude the trial and thus, his right of speedy trial is miserably defeated. To buttress his arguments, he has submitted that though the petitioner has been prosecuted in 02 other cases, however none of them is under the NDPS Act and thus, his false implication is writ large. He has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that there was a specific secret information about the petitioner and thus, the barricading was laid. He has submitted that the recovery of contraband containing Alprazolam and Codein Phosphate was recovered on due compliance of provisions of Sections 42 & 50 of NDPS Act. He has submitted that the contraband recovered is commercial in nature, and thus, the provisions of Section 37 of NDPS Act are attracted. He, on instructions, has submitted that out of total 14 prosecution witnesses, 06 witnesses still remain to be examined. He has produced 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 FIR was registered on the basis of secret information. The petitioner was arrested on the spot on 03.10.2022. The alleged recovery of 148.6 grams of Alprazolam and 1.2 Kg of Codein

Phosphate is found to be commercial in nature. Custody certificate



produced would show that the petitioner has suffered incarceration of 03 years, 01 month and 21 days on the 26.11.2025. It further reflects that the petitioner is involved in 02 other cases, however he is on bail in those cases. Out of 14 prosecution witnesses, 06 witnesses still remain to be examined. Needless to say that every accused has the fundamental right of speedy trial.

7. 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



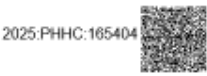
the crime, more honour is paid to the criminal”²² (also see Donald Clemmer’s ‘The Prison Community’ published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families 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.

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.

12. 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.

(RAJESH BHARDWAJ)
JUDGE

28.11.2025

<i>rittu</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No