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

CRM-M-29967-2024

Date of decision : 30.04.2025

Harchand Singh**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Simranjit Singh, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab assisted by
SI Navdeep Kaur and Inspector Gurpreet Singh.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.31 dated 27.02.2024, under Section 22 of NDPS Act, 1985, registered at Police Station Sadar Nabha, District Patiala.

2. Succinctly the facts of the case are that on 27.02.2024, the Police had laid the barricading and were checking the vehicles. At about 5:45 PM, they spotted a young person coming in the Car bearing PB12AE-8056 make HONDA AMAZE color. On seeing the Police, he threw a transparent polythene out of the car and started turning his car, however, the car was stopped by the Police party. The driver of the car, on asking, disclosed his name as Harchand Singh S/o Gulwinder Singh. The intoxicant tablets were visible in the transparent envelope thrown by him. On checking, 1250 tablets containing salt Diphenoxylate Hydrochloride. He failed to produce any licence for possession of the same and thus, FIR was registered and he was arrested on the spot. Samples taken from the



contraband were sent to the FSL. On receiving the FSL report, challan was presented and on framing of charges, trial commenced. Thereafter, the petitioner approached the Ld. Judge, Special Court, Patiala for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court, Patiala vide order dated 03.06.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that the petitioner is a Taxi driver who had been implicated in this case by the Police in a clandestine manner. He submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that the petitioner also filed an application for producing the CCTV footage but the same was not produced by the Investigating Agency as the petitioner is falsely implicated in the present case. It is submitted that even otherwise the alleged recovery effected from the petitioner is in violation of provisions of Section 50 of NDPS Act. He submits that the petitioner has no criminal antecedents and he is behind bars from the date of his arrest i.e. 27.02.2024, however, till date there is no progress in the trial. He submits that the prosecution witnesses who are official witnesses are intentionally not appearing before the trial Court in order to prolong the incarceration of the petitioner. He thus submits that in the facts and circumstances of the present case, he 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



alleged recovery has been effected from the petitioner on due compliance of Section 50 of NDPS Act. He submits that as per the FSL report, the contraband recovered is 83.75 grams of Diphenoxylate Hydrochloride, which falls under the commercial quantity, and thus, provisions of Section 37 of NDPS Act, are attracted. He, on instructions, submits that in all there are total 13 prosecution witnesses, out of which none has been examined so far. He has produced the custody certificate of the petitioner in Court. 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 petitioner is behind bars 27.02.2024 and since then he is behind bars. Recovery in the present case has been effected from a public place. The custody certificate produced would show that the petitioner has suffered an incarceration of 01 year and 02 months as on 29.04.2025. It further reflects that the petitioner has no criminal antecedents as he has never been involved in any other criminal case. As submitted before this Court by learned State counsel, no witness has been examined by the prosecution till date.

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



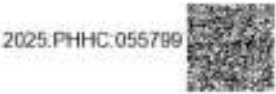
accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional 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 his 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.

30.04.2025
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(RAJESH BHARDWAJ)
JUDGE

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