



246

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

CRM-M-27616-2025

Date of decision : 06.08.2025

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

Present :- Ms. Manveen Kahlon, Advocate
the petitioner.

Ms. Simran Gorla, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.102 dated 14.12.2023 under Sections 21(C), 27-A & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Saria Amant Khan, District Tarn Taran, Punjab.
2. As per the case of the prosecution, the police party while on patrolling on 14.12.2023, saw two persons coming on their motorcycle. On seeing the police, they got perplexed and tried to turn back the motorcycle, however, the same got slipped. Thereafter, the person seating pillion took out a polythene bag from the pocket of his trouser and attempted to throw the same, however, they were apprehended by the police. On asking, the driver of the motorcycle disclosed his name as Shamsher Singh @ Shera (present petitioner) whereas the person seating pillion disclosed his name as Amritpal Singh @ Amrit. They were suspected to be carrying some contraband in the polythene bag and thus, search of the same was conducted and 500 grams of heroin was recovered from the same. On conducting the search of the petitioner, Rs.1 lac was



recovered as drug money. They failed to produce any license regarding possession of the same and hence, the FIR was registered and both were arrested on spot. The investigation commenced. Samples taken were sent to the FSL. On completion of the investigation, the charges were framed and on framing of charges, the trial commenced. The petitioner approached the Learned Additional Sessions Judge, Tarn Taran praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Additional Sessions Judge, Tarn Taran, vide order dated 07.05.2024. Aggrieved by the same, the petitioner earlier approached this Court twice by way of filing of CRM-M-1946-2025 and CRM-M-27723-2024 but the same were declined by this Court vide order dated 05.02.2025 and 14.06.2024, respectively. Hence the petitioner is before this Court by way of filing of present third petition for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. She submits that from the personal search of the petitioner Rs.1 lac was recovered, which he earned through agriculture and the alleged recovery of 500 grams of heroin was recovered from the person riding pillion. She submits that the petitioner has no criminal antecedents. She submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agencies. To buttress her arguments, she submits that there is a violation of provisions of Section 50 of the NDPS Act. She submits that the petitioner is behind bars since the date of his arrest i.e. from last 1 ½ years, however, there is no progress in the trial. She, thus, submits that in 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 the counsel for the petitioner and submits that the petitioner was arrested on spot, who was driving the motorcycle and from the person riding pillion, 500 grams of heroin was recovered, which is a commercial quantity and from the search of petitioner Rs.1 lac, which is the drug money, was recovered. She, on instructions, has submitted that out of total 15 prosecution witnesses, none has been examined so far. She has produced the custody certificate of the petitioner on record. She further submits that the petitioner is involved in one more case for the offence under IPC.

5. After hearing counsel for the parties and perusing the record, it is deciphered that from the petitioner the alleged drug money of Rs.1 lac was recovered, however, recovery of 500 grams of heroin was effected from the co-accused, who was riding pillion. As per custody certificate, the petitioner has suffered an incarceration of 01 year, 07 months and 16 days as on 05.08.2025. As submitted before this Court, out of total 15 prosecution witnesses, none has been examined so far. Though petitioner is involved in one more case, however, the same is for the offence under IPC and not under the NDPS Act.

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 conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.



8. 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.

06.08.2025
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(RAJESH BHARDWAJ)
JUDGE

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