



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-28371 of 2025

Date of Decision: 19.08.2025

Rajeev Kumar alias Ghoki alias Rajiv Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Rajesh K. Dadwal, Advocate
for the petitioner(s).

Surya Partap Singh, J.

1. The petitioner, who is facing trial, pursuant to FIR No. 339 dated 23.11.2024, Police Station City Hoshiarpur, District Hoshiarpur, has filed the present petition for bail.

2. By virtue of above mentioned FIR, the petitioner is being prosecuted for the commission of offence punishable under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “the NDPS Act”).

3. The allegations as contained in the FIR are that on 23.11.2024, when the police party headed by ASI Satnam Singh was on patrol duty, they spotted a person coming from opposite direction, who spotted a police party on his way ahead and hastily tried to flee. On the basis of suspicion, he was intercepted and on inquiry, he disclosed his name as Jiwan Kumar alias Tiddi. On search, one polythene envelop containing 50 loose intoxicating tablets was recovered from his possession. The above said person suffered a

disclosure statement wherein he nominated the name of petitioner.

4. The learned State counsel has filed the custody certificate, however, he has not opted to file reply to the petition.

5. Heard.

6. While seeking the benefit of bail, it has been argued by learned counsel for the petitioner that name of the petitioner has cropped in the disclosure statement of his co-accused, namely Jiwan Kumar alias Tiddi, who was arrested on the spot. The learned counsel for the petitioner has further argued that the petitioner has been falsely implicated in the present case and nothing has been recovered from the possession of the petitioner. It has also been contended learned counsel for the petitioner that as per custody certificate, the petitioner is in custody for a period of five months and 16 days; and that investigation in this case is already complete and the trial is not likely to be concluded in the near future. According to the learned counsel for the petitioner, in view of the ratio of judgment of the Hon'ble Supreme Court in the case of *Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023*, the petitioner is entitled for the benefit of bail.

7. Per contra, the learned State counsel has vehemently opposed the above said petition of the petitioner. According to learned State counsel, Section 37 of the NDPS Act is attracted in the present case and therefore, without observing that there are reasonable grounds for believing that the petitioner is not guilty of the offence, and that he is not likely to commit any offence while on bail, the benefit of bail cannot be extended to the petitioner.

9. The record has been perused carefully.

10. In view of the facts and circumstances of the instant case, following are the relevant factors which need consideration:-

- i) that the petitioner has already suffered sufficient incarceration for being in custody for a period of five months and 16 days;
- ii) that the investigation in this case is already complete and nothing is left to be recovered from the possession of the petitioner;
- iii) that trial of the case is not likely to be concluded in the near future;
- iv) that the detention of the petitioner behind the bars is not likely to serve any purpose;
- v) that nothing was recovered from the possession of accused/petitioner;
- vi) that he has been implicated merely on the basis of disclosure statement of co-accused;
- vii) that even the co-accused has not specifically stated that the recovered contraband was supplied to him by the petitioner; and
- viii) that for want of recovery or allegations of supply of contraband, there is a serious doubt about the applicability of Section 37 of the NDPS Act.

11. Taking into consideration the cumulative effect of all the aforesaid factors, the present petition is hereby allowed and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court concerned is not available on the date of furnishing bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose to any other Court.

12. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

August 19, 2025
“DK”

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