



247

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

**CRM-M No.29906 of 2025
Date of Decision: 04.09.2025**

Monu**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Ms. Diya Sodhi, Sr. DAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.718, dated 12.11.2023, under Section 21 of NDPS Act (Sections 22, 29 of NDPS Act added later on), registered at Police Station Shivaji Colony, District Rohtak, Haryana.

2. Succinctly the facts of the case are that the police party, while on patrolling on 12.11.2023, received a secret information to the effect that Monu (petitioner) was involved in the business of selling intoxicating drugs. It was informed that he would be arriving from Delhi Bypass side along with the drugs and if the check point is set, then he could be apprehend along with the contraband. On receiving the secret information, the raiding party was constituted and the check point was set up



at the place disclosed. A young person was seen approaching from the direction of Delhi bypass by carrying a plastic bag/katta. On suspicion, he was stopped. On asking, he disclosed his name to be Monu @ Daku. He was suspected to be carrying some contraband in the bag, however the same was searched. On conducting the search, 99 bottles of Wincerex, 270 tablets of Alpasafe and 88 capsules of Sampex plus were recovered. The petitioner 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 the FSL, the challan was presented and on framing the charge, the trial commenced. The petitioner approached the Court of learned Additional District & Sessions Judge, Rohtak praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Additional District & Sessions Judge, Rohtak declined the bail application filed by the petitioner vide order dated 19.12.2024. Hence being aggrieved, the petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that admittedly the FIR in the present case is registered on the basis of secret information but there is a violation of mandatory provisions of Sections 42 of NDPS Act. He has submitted that no independent witness was joined and the search has been conducted in violation of the mandatory provisions of Section 50 of NDPS Act. He has submitted that the recovery effected has been planted upon the petitioner. To strengthen



his arguments, learned counsel for the petitioner has submitted that the petitioner has never been involved in any other case of the similar nature and thus, his false implication is writ large. He has submitted that the petitioner has completed incarceration of 1½ years, however till date the prosecution has not been able to examine even a single witness and thus his right of speedy trial has been miserably defeated. He has submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. She has submitted that there was specific information received about the petitioner and on conducting the raid, the petitioner was arrested on spot from whom recovery of 9.9 Kg of Codein was effected, which is a commercial quantity and thus provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that out of total 17 prosecution witnesses, no witness has been examined so far. She has produced on record 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 allegedly carrying the contraband, out of which Codein weighing 9.9 Kg was recovered. Out of 17 prosecution witnesses, no witness has been examined till date. Custody certificate produced would show that the petitioner has completed incarceration of 01 year, 09 months and 16 days as on 03.09.2025. Custody certificate



further shows that the petitioner is not involved in two other cases, however in one of the case, he is on bail.

7. 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.”

8. 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.

9. 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. 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. However, if the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in this case.

04.09.2025

rittu

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

(RAJESH BHARDWAJ)
JUDGE