

2025:PHHC:074488



209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29112-2025
Date of Decision: 29.05.2025

Pardeep Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Monty Goyal, Advocate
for the petitioner(s).

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.143 dated 18.06.2023 under Sections 21(c)/22(c)/25/29 of the NDPS Act, 1985 registered at Police Station Munak, District Karnal.

2. Succinctly, facts of the case are that on 18.06.2023, the police party were on patrolling and received a secret information to the effect that one Pardeep Singh (petitioner) is indulged in selling the intoxicant substances and he would be coming on his motorcycle with drugs from village Munak side towards village Bal Ragdan. On receiving the secret information, notice under Section 42 of the NDPS Act was prepared and the police party held a *Nakabandi* on the disclosed road. On reaching at the place disclosed, the boy riding the motorcycle was seen coming. On seeing the police, he got perplexed and tried to escape, however, he was overpowered by the police party. On asking, he disclosed his name as

Pardeep. He was suspected to be carrying some contraband. After giving offer for the personal search, the same was conducted and a black colour polythene was found kept on the tank of his motorcycle, which was checked and total 12,000 tablets of Alprazolam and 70 MTP kits were found therein. The weight of the recovered substance was found to be 2 kg. 213 grams. He failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced and the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Karnal praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 21.03.2024. Aggrieved from the same, he approached this Court by way of filing the petition bearing CRM-M-32222-2024, which was dismissed as withdrawn on 12.07.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present third petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been roped in the present case on the basis of the secret information. He submits that there is violation of mandatory provisions of Section 42 of the NDPS Act. He further submits that the alleged recovery has been effected from a public place, but independent witness has not been joined. He submits that personal search of the petitioner was also carried out and thus, there is violation of Section 50 of the NDPS Act as well. He submits that recovery as alleged to have been effected is totally a planted recovery. He further submits that besides the petitioner, there is one more accused namely Mohd. Riyan Ansari and he has been granted concession of regular bail by this Court vide order dated 06.03.2024 passed in CRM-M-10615-2024. It is submitted that the petitioner has completed incarceration of about 02 years, but there is no progress in the trial. He,

thus, submits that in view of 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 counsel for the petitioner. He has submitted that in due compliance of Sections 42 and 50 of the NDPS Act, recovery of total 12,000 tablets of Alprazolam and 70 MTP kits were effected from the petitioner, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that out of total 16 prosecution witnesses, only 03 witnesses have been examined so far. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the present FIR has been lodged on the basis of the secret information. Recovery allegedly effected from the petitioner is commercial one. Out of total 16 prosecution witnesses, only 03 witnesses have been examined till date. The co-accused namely Mohd. Riyan Ansari has already been granted concession of regular bail. The custody certificate would reflect that the petitioner has suffered incarceration of 01 year, 11 months & 06 days as on 27.05.2025. It further reflects that the petitioner is involved in one another case of similar nature and he is in custody in that case.

6. 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.

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21it 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.

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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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Thus, keeping in view the arguments raised by both the sides, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. 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. However, if the applicant-appellant does not furnish the bail bonds within 07 days from today, then his further custody period after one week will not be counted in this case.

9. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

29.05.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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