



CRM-M-32604-2024

-1-

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

CRM-M-32604-2024

Date of decision: 02.12.2025

GURJANT SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ashish Aggarwal, Advocate for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached by way of filing the first petition praying for grant of regular bail in case FIR No.60 dated 07.04.2023 under Sections 21-61-85 of NDPS Act, registered at Police Station Mahilpur, District Hoshiarpur.

2. Succinctly the facts of the case are that on 07.04.2023, the police laid the barracading and were inspecting the vehicles. A Swift car was seen coming at a high speed. The same was signalled to be stopped. However, the driver of the car got perplexed and tried to reverse the vehicle. However, the police party nabbed the driver and on asking, he disclosed his name to be Gurjant Singh. He was suspected to be carrying some contraband. On giving the offer, his personal search was conducted. From his personal search, a cash of Rs.20,000/- as drug money was recovered whereas from the dashboard of the car, one envelope containing 1kg Heroin was also recovered. He failed to produce any license regarding the possession of the same. Thus, FIR got registered. During the investigation, the petitioner was arrested at the spot. On completion of the investigation, the challan was presented and on framing of charges, trial

commenced. He approached the learned Judge Special Court, Hoshiarpur for

**CRM-M-32604-2024****-2-**

grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Judge Special Court, Hoshiarpur declined the bail application vide order dated 01.12.2023. Aggrieved by the same, 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 submits that the alleged recovery of contraband has been effected from the dashboard of the car and no independent witness has been joined. He further submits that the alleged of drug money was recovered from the personal search of the petitioner, but the provisions of Section 50 of the NDPS Act was violated. Though, the petitioner has been falsely prosecuted in one more case under NDPS, however, he is on bail in that case. He further submits that petitioner is in custody for the last more than 02 and a half years. There is no indication of any progress in the trial. He further submits 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 submits that 1kg of Heroin was recovered from the car of the petitioner in which he was travelling in which he was arrested at spot. He further submits that the drug money of Rs.20,000/- was also recovered from his possession. However, since the alleged contraband recovered from the petitioner's possession is 1 kg of Heroin, which is commercial quantity, thus, the provisions of Section 37 of NDPS Act are attracted. On instructions, she submits that out total 11 prosecution witnesses, only 04 have been examined. She has produced the custody certificate of petitioner today in the Court and the same is taken on record which shows that he is involved in four more cases under the Prisons Act.



CRM-M-32604-2024

-3-

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that petitioner was arrested on 07.04.2023 and 1 kg of heroin was effected from him. Custody certificate produced would show that the petitioner has completed incarceration of 02 years, 07 months and 21 days as on 01.12.2025. It further reflects that the petitioner is involved in 04 more cases, however, he is on bail in all of them. Out of 11 prosecution witnesses, only 04 have been examined so far. Needless to say that speedy trial is the fundamental right of every accused.

7. 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.

9. The Hon’ble Supreme Court in **Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695** has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

10. The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in **‘Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024’**, has held that howsoever serious a crime may be, an accused has



CRM-M-32604-2024

-5-

the right to speedy trial under the Constitution of India.

11. 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.

02.12.2025
renubala

(RAJESH BHARDWAJ)
JUDGE

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