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

CRM-M-34636-2024

Date of decision : 10.02.2025

Arashdeep Singh @ Ashokdeep Singh @ Macchi**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. L.S. Sekhon, Advocate with Ms. Nidhi, Advocate
for the petitioner.

Mr. Ravinder Singh, A.A.G, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.61 dated 23.07.2023, under Sections 21(c)/29 of NDPS Act, 1985 and Section 25 of Arms Act, registered at Police Station Chohla Sahib, District Tarn Taran.

2. Succinctly the facts of the case are that the police party while on patrolling on 23.07.2023, spotted two young persons sitting in the corner, who on seeing the Police tried to escape, however, both were apprehended. On asking, they disclosed their names as Arshdeep Singh @ Machhi (present petitioner) and the other one as Jagdev Singh @ Billa. On their search, country made pistol from the right side (dabh) which on unloading, 2 live cartage of .32 bores were found from the petitioner and similarly from the search of co-accused Jagdev Singh also country made pistol from the dabh and one live cartage .32 bore were recovered. They failed to produce any licence for possession of the same and thus, FIR was



registered and they were arrested on the spot. On registration of the FIR, investigation commenced. During investigation, on the disclosure statement of the petitioner, 280 grams of heroin was recovered on 25.07.2023. Thus, the petitioner was prosecuted for the offence under the Arms Act as well as under the NDPS Act. Hence, they were arrested on 23.07.2023. The petitioner approached the Ld. Judge, Special Court, Tarn Taran for grant of bail, however, after hearing both the sides, the same was declined by the Judge, Special Court, Tarn Taran vide order dated 18.05.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the alleged recovery made from the petitioner is from the public place, however, no independent witness was joined at the time of recovery by the Police. He further submits that the alleged recovery of 280 grams of heroin was planted on the petitioner subsequently, wherein allegedly on the basis of the disclosure statement 280 grams of heroin was shown to be recovered. It is submitted that though the petitioner is falsely involved in two more cases, however, he is on bail in those cases. It is submitted that the petitioner is behind bars from the last 1 ½ years, however, there is no progress in the trial. As the prosecution is intentionally delaying the trial. He submits that speedy trial is the fundamental right of every accused and thus, in the facts and circumstances of the present case, he deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the recovery was effected from the search of the petitioner. The recovery of



the arms and ammunition was made and thereafter, on his disclosure, 280 grams of heroin, which is a commercial quantity was recovered and thus, provisions of Section 37 of NDPS Act, are attracted in the present case. He submits that out of 12 prosecution witnesses, only 01 witness has been examined so far. He has produced the custody certificate of the petitioner in the Court. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 23.07.2023. At the time of his search, recovery of one country made pistol and 02 live cartage of .32 bores were recovered, however, subsequently on his disclosure 280 grams of heroin was also allegedly recovered. Custody certificate reflects that petitioner is involved in 02 more cases, however, he is on bail in those cases. There is no gain saying that the petitioner is behind bars since the date of his arrest. The custody certificate would show that the petitioner has undergone the custody of 01 year, 06 months and 14 days as on 09.02.2025.

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.

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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 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. 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 and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

10.02.2025
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(RAJESH BHARDWAJ)
JUDGE

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