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

**CRM-M No.31552 of 2025
Date of Decision: 09.09.2025**

Lakhbir @ Lucky Baba**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Brijesh Nandan, Advocate
for the petitioner.

Ms. Simran Gorla, Asstt. A.G., Punjab.

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.74, dated 21.06.2024, under Section 22(B) of NDPS Act, registered at Police Station City Nakodar, District Jalandhar, Punjab.

2. Succinctly the facts of the case are that the police party, while on patrolling on 21.06.2024, saw a young boy standing near the gate with a polythene bag in his hand. On seeing the police, he got perplexed and threw the polythene bag on the side of the road. However, on suspicion, he was apprehended and on asking, he disclosed his name to be Lakhbir @ Lucky Baba (petitioner). He was suspected to be carrying some contraband in the envelope thrown by him and thus, the same was searched. On conducting the search, 100 loose tablets along with 230



intoxicating capsules were recovered from him. He 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 report, 90 tablets were found to be containing Etizolam weighing 9.18 grams and 10 tablets were found to be containing Alprazolam weighing 1.3 grams, however 230 capsules were found to be containing Pragabalin salt but the same did not fall under the NDPS Act. The petitioner approached the Court of learned Judge, Special Court, Jalandhar praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Jalandhar declined the bail application filed by the petitioner vide order dated 07.01.2025. 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 the alleged recovery has been effected from the public place, however no independent witness has been joined. He has submitted that as per the case of prosecution, the alleged recovery is of 100 loose tablets, however the samples have been taken in violation of the law settled and thus, the tablets sent to the FSL cannot be a representative sample of the whole contraband recovered. He has submitted that the recovery effected is also in violation of the provisions of Section 50 of NDPS Act. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 21.06.2024, however there is no progress in the trial. To buttress his arguments, learned counsel for the petitioner has submitted



that the petitioner has never been involved in any other case of the similar nature. 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 the petitioner was arrested on the spot and the recovery was effected on due compliance of provisions of Section 50 of NDPS Act. She has submitted that as per the FSL report, the contraband recovered weighed 1.3 grams of Alprazolam and 9.18 grams of Etizolam, which is commercial in nature and thus, the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that out of 12 prosecution witnesses, 06 remains to be examined. She has produced 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 has transpired that the alleged recovery effected from the petitioner was found to be 9.18 grams of Etizolam and 1.3 grams of Alprazolam. The arguments raised by learned counsel for the petitioner is that the sample taken was not a representative sample would be assessed by the trial Court on weighing the evidences and thus, this Court would refrain itself from commenting anything on the merits of the case. Custody certificate produced would show that the petitioner has completed incarceration of 1 year, 02 months and 16 days as on 08.09.2025. It further reflects that the petitioner is involved in one more case, however he is on bail in that case and he is not involved in any other case under the NDPS Act. Out of 12 prosecution witnesses, 06 witnesses



remain to be examined.

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. xxxxxx

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. xxxxxx

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. This Court would refrain itself from commenting anything on the merits of the case.

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.

09.09.2025

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Whether speaking/reasoned
Whether reportable

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Yes/No
Yes/No

(RAJESH BHARDWAJ)
JUDGE