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

**CRM-M No.34129 of 2025
Date of Decision: 13.11.2025**

Lakhwinder @ Lucky

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Avtar Singh Bhatti, 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.0069, dated 07.04.2020, under Section 21, 22 of NDPS Act (Section 29 of NDPS Act added later on), registered at Police Station Tanda, District Hoshiarpur.

2. Succinctly the facts of the case are that the police party, while on patrolling on 07.04.2020, received a call from Sarpanch, namely, Amrik Singh of village Chotala. It was informed that he had apprehended 03 young persons during the search of village with regard to the Lockdown going on during the Pandemic. On receiving the information, the police party reached the place and in the presence of Sarpanch, Amrik Singh, whereabouts of apprehended persons were sought. However, on



asking, they disclosed their names to be Suraj, Kaljot @ Karan and Lakhwinder @ Lucky (petitioner). All three persons disclosed that they were drug addict and after buying the intoxicant, they consumed the same and the remaining, they sold for earning their livelihood. It was further disclosed that they came to the village to purchase the drugs, however they were apprehended by the villagers. It was informed that if their search was conducted, intoxicant substance could be recovered. On conducting the search of Suraj @ Shanki, two polythene envelopes were recovered from the right pocket of his pant and thus, on the search of both envelopes, 04 grams of heroin along with 100 grams of intoxicant substance was recovered, whereas from the search of Kaljot @ Karam, 105 grams of intoxicant substance was recovered. From the search of Lakhwinder @ Lucky, 115 grams of intoxicant substance was recovered from the right pocket of his trouser. They failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and all were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. The total intoxicant substance recovered from 03 of the accused was found to be 320 grams of Alprazolam. The petitioner was earlier granted interim bail to await the report of FSL, however, he absconded and thus, was declared proclaimed offender on 07.02.2024. Thereafter, he was arrested on 16.02.2024. The petitioner approached the Court of learned Judge, Special Court, Hoshiarpur praying for the 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 filed by the petitioner vide order dated 03.06.2025. Hence being aggrieved, the



petitioner is before this Court by way of filing the present petition praying for the grant of bail.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery has been effected from the search of the person of petitioner but there is a violation of mandatory provisions of Section 50 of NDPS Act. He has submitted that the alleged recovery effected from the petitioner is 115 grams of Alprazolam, which is marginally above the commercial quantity, whereas more than 100 grams of Alprazolam is a commercial quantity. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 16.02.2024, however the prosecution has not examine even a single witness till date. He has submitted that though the petitioner is involved in 02 other cases, however in 01 case, he has been discharged whereas in other case, he is on bail. He has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. She has submitted that the petitioner along with the co-accused was apprehended by the villagers. She has submitted that on their search, total 320 grams of Alprazolam was recovered, however from the personal search of the petitioner, 115 grams of Alprazolam was effected, which is also a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that out of total 20 prosecution witnesses, no witness has been examined so far. She has submitted that the petitioner is involved in other cases as well. 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 is deciphered that the petitioner in the present case though was declared proclaimed offender on 07.02.2024 but thereafter he was arrested on 16.02.2024. The alleged recovery from the personal search of the petitioner is 115 grams of Alprazolam, which is commercial in nature. The petitioner is behind bars since the date of his arrest, i.e. 16.02.2024. Custody certificate produced would show that the petitioner has suffered incarceration of 01 year, 09 months and 13 days on the 12.11.2025. It further reflects that the petitioner is involved in 02 other cases. Out of total 20 prosecution witnesses, no witness has been examined so far.

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. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail.



10. 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. 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.

(RAJESH BHARDWAJ)
JUDGE

13.11.2025

<i>rittu</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No