

2025:PHHC:104553



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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(1). CRM-M-35057-2025
Date of Decision: 12.08.2025

Surjit Kaur @ Charanjit Kaur @ Charno ...Petitioner

Versus

State of Punjab ...Respondent

and

(2). CRM-M-14965-2025

Tarsem Singh @ Sema ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Taranjit Kaur Hundal, Advocate
for the petitioner in CRM-M-35057-2025.

Ms. Gaganpreet Kaur, Advocate with
Mr. Kuldip Singh, Advocate
for the petitioner in CRM-M-14965-2025.

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. By way of this common order, I intend to dispose of abovesaid two petitions as they have arisen out of the same FIR.
2. Petitioners have approached this Court by way of present petitions praying for granting regular bail in case FIR No.114 dated 20.08.2024 under Sections 21A/22B of the Narcotic Drugs and Psychotropic Substances Act, 1985 (charges framed under Section 21A/22C/29 of the NDPS Act) registered at Police Station Shahkot, District Jalandhar Rural (Annexure P-1).
3. Succinctly, facts of the case are that on 20.08.2024, the police

party while on patrolling saw one e-rickshaw coming. On seeing the police, driver of said e-rickshaw got perplexed and tried to turn e-rickshaw back. The police stopped the e-rickshaw. On asking, driver of e-rickshaw disclosed his name as Gurpreet Singh @ Gori. The person sitting behind along with a lady disclosed his name as Tarsem Singh @ Sema (petitioner in CRM-M-14965-2025) and the said lady disclosed her name as Surjit Kaur @ Charanjit Kaur @ Charno (petitioner in CRM-M-35057-2025). They were suspected to be carrying some contraband in e-rickshaw and they were given offer to be searched. On conducting the search of e-rickshaw a polythene bag was recovered beneath the driver seat. On searching the same, 105 loose intoxicant tablets and 03 grams of heroin were recovered. They failed to produce any licence regarding possession of the same and thus, they were arrested on spot. Samples taken were then sent to the FSL. On registration of the FIR, the investigation commenced. On receiving the report from the FSL, the intoxicant tablets recovered were found to be containing 10.605 grams Etizolam. The challan was presented and on framing of charges, the trial commenced. The petitioners approached the Court of learned Judge, Special Court, Jalandhar praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail applications filed by the petitioners vide orders dated 08.10.2024. Thereafter, petitioner Surjit Kaur @ Charanjit Kaur @ Charno approached this Court by way of filing CRM-M-61139-2024 and CRM-M-14701-2025, which were dismissed as withdrawn on 11.12.2024 and 05.05.2025 and petitioner Tarsem Singh @ Sema approached this Court by way of filing CRM-M-61602-2024, which was dismissed as withdrawn on 12.12.2024. Hence, the petitioners have approached this Court praying for grant of bail by way of filing the present third and second petitions, respectively.

4. It has been contended by learned counsel for the petitioners that both the petitioners are husband and wife and they have been falsely and frivolously roped in the present case. They submit that there is violation of mandatory provisions of the NDPS Act. They further submit that the alleged recovery has been effected from a public place, but independent witness has not been joined. They submit that personal search of the petitioners was also carried out and thus, there is violation of Section 50 of the NDPS Act as well. They submit that petitioners have no criminal antecedents as they are not involved in any other case. It is submitted that both the petitioners are behind bars for the last about 01 year, however, there is no material progress in the trial. They further submit that speedy trial is the fundamental right of every accused irrespective of the gravity of the offence, they are involved in. They, thus, submit that in view of the facts and circumstances of the case, the petitioners deserve to be granted bail.

5. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioners. She has submitted that on due compliance of Sections 42 and 50 of the NDPS Act, recovery of 105 loose intoxicant tablets (containing 10.605 grams Etizolam) and 03 grams of heroin was effected from the petitioners, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. On instructions, she submits that out of total 13 prosecution witnesses, none has been examined till date. She has placed on record the custody certificates of the petitioners.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioners are behind bars since the date of their arrest i.e. 20.08.2024. Recovery allegedly effected from the petitioner is commercial one. Out of total 13 prosecution witnesses, none has been examined so far. The custody certificates would reflect that the petitioners have suffered incarceration

of 11 months & 20 days as on 09.08.2025. It further reflects that the petitioners are not involved in any other case.

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.

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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.'

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. 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 petitioners succeed in making out a case for grant of regular bail to the petitioners.

9. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

11. A photocopy of this order be placed on the files of another connected case.

12.08.2025

Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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