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

CRM-M-36317-2025

Date of Decision: 22.08.2025

Kuljinder Singh @ Kalu
Versus

..... Petitioner

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Prateek Pandit, Advocate, for the petitioner.

Ms. Simran Gorla, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached by way of filing the present petition praying for grant of regular bail in case FIR No.127 dated 20.06.2022 under Sections 22, 25, 29 of NDPS, 1985 (Sections 25 and 29 of NDPS Act added lateron), registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Succinctly, facts of the case are that on 20.06.2022, the police party while on patrolling saw a person coming on motorcycle, who on seeing the police party got perplexed and tried to turn back his motorcycle. A polythene bag was also thrown by him. However, he was apprehended and on asking, he disclosed his name as Kuljinder Singh @ Kalu (petitioner). The polythene bag thrown was searched and 275 grams of intoxicant substance was recovered from the same. He failed to produce any licence regarding possession of the same. Thus, on the registration of the FIR, he was arrested on the spot. The investigation commenced and the samples taken were sent to the FSL. On receipt of the FSL report, the intoxicant substance recovered was found to be Alprazolam. The petitioner approached the Court of learned Judge, Special Court, Kapurthala praying for grant of regular bail. After hearing both the sides, interim bail was granted to the petitioner vide order dated 05.09.2022. However, on receipt of Chemical



Examiner Laboratory report, his interim bail was cancelled vide order dated 18.01.2023. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery has been effected from a public place, however, no independent witness has been joined. He submits that there is violation of Section 50 of NDPS Act as well. He submits that after the arrest of the petitioner, while he was in jail, the petitioner was falsely implicated in other cases under the NPDS Act, simply on the basis of disclosure statements. He submits that the petitioner is behind bars from the last more than 2½ years, however, there is no material progress in the trial and thus, his right of speedy trial is defeated. He, thus, submits that in the overall facts and circumstances of the case, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. She submits that the petitioner is a habitual offender as he is involved in more than 10 cases. She has submitted that on due compliance of the provisions of NDPS Act, recovery was effected, which is commercial in nature and thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, she has submitted that out of 11 prosecution witnesses, 02 witnesses have been examined. She has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is inferred that the petitioner is behind bars since 20.06.2022. As submitted before this Court, 02 witnesses have been examined out of 11 prosecution



witnesses. Custody certificate of the petitioner shows that he has suffered incarceration of 02 years, 09 months & 25 days as 21.08.2025. Though the petitioner is involved in other cases, however, in one case he is on bail, rather some of the cases have been registered while he was in jail. Needless to say that speedy trial is the fundamental right of every accused.

6. 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.'

7. The trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. 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.”

8. 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 the right to speedy trial under the Constitution of India. Though the petitioner is involved in other cases, however, the same cannot be a ground for non-consideration of his bail, specially when some of the cases were registered when he was jail.

9. The veracity of the allegations would be assessed only after the



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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. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

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.

11. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

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

(RAJESH BHARDWAJ)
JUDGE

22.08.2025

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Whether Speaking/Reasoned :
Whether Reportable :

Yes/No
Yes/No