

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

2025:PHHC:119316



(241)

CRM-M-37373-2025

Date of Decision: 03.09.2025

Punjab Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Bhupinder Ghai, Advocate for petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

1. This is the second petition that has been filed for grant of regular bail to the petitioner in case FIR No.145 dated 08.11.2020, under Sections 22, 61 & 85 of Narcotic Drugs and Psychotropic Substances Act, 1985 read with Sections 25/27/54/59 of Arms Act and Sections 148/149 IPC (later on Sections 148/149 IPC and Section 27 of Arms Act were deleted vide DDR No.30 dated 20.08.2022 and Section 22 of the NDPS Act was replaced by Section 22-C vide DDR No.36 dated 16.09.2022), registered at Police Station Khem Karan, District Tarn Taran.

2. Succinctly the facts of the case are that on 08.11.2020, the police party while on patrolling, received a secret information to the effect that Punjab Singh S/o Major Singh (petitioner) and Prabhjit Singh @ Prabha S/o Partap Singh, were engaged in selling the narcotic pills. It was informed that they along with co-accused were present at the residence of Punjab Singh and if the raid is conducted, they could be apprehended along with

the contraband. On receiving the information, the raiding party was constituted and they reached at the place as informed. 03 cars were found parked in front of the house of Punjab Singh. The persons sitting in cars tried to escape on seeing the police. However, the police could arrest 02 of them i.e. petitioners, namely, Prabhjeet Singh and Punjab Singh. On seeing the police, they got perplexed and threw the packets out from their pockets. On apprehending, they were suspected to be carrying some contraband. On conducting the search of the plastic polythene thrown by the petitioner on the ground, 960 tablets were recovered. They failed to produce any licence regarding possession of the same and thus, they were arrested on spot. On registration of the FIR, investigation commenced. The samples taken were sent to the FSL. The petitioner approached the learned Sessions Judge, Tarn Taran for grant of bail, however, after hearing both the sides, the same was declined by the learned Sessions Judge, Tarn Taran vide order dated 19.07.2023. Aggrieved by the same, the petitioner earlier approached this Court by way of filing of CRM-M-43689-2023 which was dismissed as withdrawn by this Court vide order dated 19.09.2023. Hence, petitioner is before this Court by way of filing the present second petition.

3. It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that the FIR has been registered on the basis of secret information. He submits that there is violation of Section 42 of NDPS Act. He submits that during recovery, compliance of Section 50 of NDPS Act was mandatory, however, there is violation of the same as well. He submits that as per the case of prosecution, the petitioner was allegedly carrying .12 bore rifle but during investigation, the offence under Section 27 of

Arms Act was deleted. He submits that recovery has been planted upon the petitioner in a due deliberated manner. He submits that even otherwise the petitioner is behind bars from last more than 02 years, however, the prosecution has not been able to conclude the trial till date. He, 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 petitioner was named in the secret information and on conducting raid, he was arrested on spot along with the contraband. He submits that the recovery effected from the petitioner is 960 Tramadol tablets and as per the FSL report the same weighs 351.36 grams which is a commercial quantity. He submits that the contraband recovered from the petitioner falls under the category of commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted. He, on instructions, has submitted that out of 31 prosecution witnesses, only 07 witnesses have been examined. He has produced the custody certificate of the petitioner.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the present FIR was lodged on the basis of secret information. The petitioner is behind bars since 06.03.2023. The perusal of the custody certificate shows that the petitioner has suffered incarceration of 02 years, 08 months and 19 days as on 02.09.2025. It further reflects that the petitioner is involved in 02 more cases under the NDPS Act.

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 above said 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 wreaked 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" (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 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 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.

8. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

03.09.2025
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No