



CRM-M-39430-2025

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

CRM-M-39430-2025

Date of Decision: 30.07.2025

Sukhjinder Singh @ Seera

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sumeet Puri, Advocate, for the petitioner (through VC).

Mr.Raj Karan Singh, 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.56 dated 26.05.2023 under Sections 15, 61, 85 of NDPS, 1985, registered at Police Station Dirba, District Sangrur.

2. Succinctly, facts of the case are that the police party while on patrolling on 26.05.2023, saw a truck coming from Patran side. The same was stopped and on asking the driver of the truck disclosed his named as Sukhjinder Singh @ Seera (petitioner) and the person sitting next to him disclosed his name as Gurwinder Singh @ Mithu. On checking the cabin of the truck, two plastic bags were found and on checking the same, poppyhusk was found in them, which on weighing came to be 80 kgs. They failed to produce any licence regarding the possession of the same. Thus, on the registration of the FIR, both were arrested on the spot. The samples taken were sent to the FSL. The investigation commenced. The petitioner approached the Court of learned Judge, Special Court, Sangrur praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by



the petitioner vide order dated 28.03.2024. Aggrieved by the same, the petitioner earlier approached this Court by way of filing CRM-M-47848-2024, however, the same was dismissed as withdrawn vide order dated 19.05.2025. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present second 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 from the bare reading of the allegations made in the FIR, it is apparent that the FIR has been lodged only to plant the recovery on the petitioner as alleged in the FIR. He submits that neither the offer for search was given to the petitioner nor any independent witness was joined at the time of alleged recovery. He thus, submits that there is a blatant violation of provisions of Section 50 of the NDPS Act. He submits that the petitioner has never been involved in any other case of the similar nature. He submits that the petitioner is behind bars from the last more than two years, but there is no progress in the trial. 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. He has submitted that the recovery effected from the petitioner and the co-accused, is of 80 kgs poppyhusk, which is commercial in nature and thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, he submits that out of total 14 prosecution witness, no witness has been examined till date. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it



is deciphered that the petitioner was arrested on 26.05.2023. Counsel for the petitioner vehemently argued that there is violation of provisions of Section 50 of the NDPS Act in the present case. The custody certificate reflects that the petitioner has suffered incarceration of 02 years, 02 months & 01 day as on 29.07.2025. It further shows that the petitioner is not involved in any other case under the NDPS Act, however, there is one more case, which is under the Prison Act. Needless to say that every accused has the fundamental right of speedy trial.

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.



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9. 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. 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.

30.07.2025

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Whether Speaking/Reasoned :
Whether Reportable :

(RAJESH BHARDWAJ)
JUDGE

Yes/No
Yes/No