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

CRM-M-40962-2025

Date of decision : 02.12.2025

Karan Kumar**....Petitioner****versus****State of U.T. Chandigarh****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Narinder S. Lucky, Advocate
for the petitioner.

Mr. Samir Rathaur, Addl.P.P., U.T. Chandigarh.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed for grant of regular bail in case FIR No.004 dated 26.09.2024, under Sections 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of NDPS Act added later on and supplementary challan against the petitioner was filed under Sections 21 & 29 of NDPS Act), registered at Police Station Crime Branch, Sector-11, Chandigarh.

2. Succinctly, the facts of the present case are that the police party, while on patrolling on 26.09.2024 at about 12:10 am, when reached at the turn of Village Kaimbala towards Chandigarh, they saw two clean shaven boys coming on an Activa without Helmet. On seeing the police party, they got perplexed and tried to escape, however, as they were carrying 04 boxes with them, out of which 02 boxes were kept in the foot rest of the driver and 02 boxes were with the pillion rider, but they could not escape. Thus, the police apprehended them. On asking, the driver of the activa disclosed his name to be Deepak and the person sitting pillion disclosed his name to be Inshuman. They were suspected to be carrying



some contraband in those boxes, thus, the same were searched. On conducting the search, 400 bottles of Codeine, were found. They failed to produce any licence regarding the conscious possession of the contraband. Thus, FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. Samples taken were sent to the FSL. During investigation, co-accused Deepak made a disclosure about the complicity of the petitioner, thus, he was also arrayed as an accused in the present case. Resultantly, the petitioner was arrested on 23.11.2024 and his house was raided and on conducting the search, 10 bottles of Codeine were recovered from his house. On receipt of FSL report, the contraband was found to be weighing 1.178 kgs of phosphate. The petitioner approached the Learned Judge, Special Court, Chandigarh praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Chandigarh vide order dated 25.02.2025. Aggrieved by the same, the petitioner earlier approached this Court by way of filing of CRM-M-15667-2025 which was dismissed as withdrawn on 15.05.2025. Hence, the petitioner is before this Court by way of filing of present second petition for grant of bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that neither the petitioner was named in the FIR, nor any recovery has been effected from him. He submits that recovery of 400 bottles was effected from co-accused Deepak and Inshuman. He submits that the petitioner has been implicated in the present case on the basis of disclosure statement of co-accused, which is not even an admissible evidence. He submits that after having been roped in the present FIR,



recovery of 10 bottles was planted upon the petitioner. He submits that no independent witness was joined by the investigating agency. He submits that there is blatant violation of provisions of Section 50 of NDPS Act. He submits that though the petitioner is prosecuted in 04 other cases, however, he has been acquitted in those cases. He submits that the petitioner is behind bars since the date of his arrest, however, till date the prosecution has not been able to conclude the trial. He thus, submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the total recovery effected in the present case is 1.178 kgs of codeine phosphate which falls under the commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted. He submits that the complicity of the petitioner was surfaced from the interrogation of the co-accused and further recovery of 10 bottles of codeine phosphate was effected from the petitioner. He, on instructions, has submitted that out of total 17 prosecution witnesses, 12 witnesses remains to be examined. 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 in the present case was arrayed as an accused on the basis of disclosure statement of the co-accused. The recovery effected from the petitioner is 10 bottles (100 ml each) of codeine phosphate syrup, however, the total recovery effected in the present case is 400 bottles of codeine phosphate weighing 1.178 kgs which is marginally above the commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted in the present case. As per custody



certificate of the petitioner, he has suffered an incarceration of 01 year and 07 days as on 01.12.2025. It further reflects that the petitioner is involved in 03 more cases, however, he is on bail in those cases.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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.

7. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.
8. 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 to the petitioner. 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.

02.12.2025
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(RAJESH BHARDWAJ)
JUDGE

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