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

CRM-M-42504-2025

Date of decision : 28.11.2025

Harjinder Kaur**....Petitioner****versus****State of Punjab****.....Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

Mr. Raj Karan Singh, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present third petition has been filed for grant of regular bail in case FIR No.116 dated 16.07.2021, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City City Patti, District Tarn Taran.

2. Succinctly the facts of the case are that the Police party while on patrolling on 16.07.2021, when reached towards Asal Chowk, spotted a woman who was walking on the main road towards the direction of Mohalla Chuthua cremation ground. On seeing the police, she got perplexed and tried to conceal a polythene envelope under her scarf. The police got suspicious and thus, stopped her. On asking, she disclosed her name to be Harjinder Kaur wife of Gurdial Singh. She was asked regarding the polythene envelope having been concealed by her and she nervously admitted that it contained the intoxicating tablets. The polythene envelope was searched and 1000 intoxicant tablets of white



colour were recovered from the same. From her personal search, Rs.14,000/- of Indian currency i.e. drug money was recovered from the pocket of her undershirt. She failed to produce any license regarding possession of the same and thus, the FIR was registered and she was arrested on spot. The investigation commenced. Samples taken were sent to the FSL. On receipt of FSL report, the intoxicant tablets were found to be weighing 338 grams of Tramadol Hydrochloride. On presentation of the challan, charges were framed and on framing of charges, trial commenced. During trial, the petitioner was granted bail by the learned trial Court vide order dated 30.09.2021, however, as she absented during trial, she was declared a proclaimed offender vide order dated 20.01.2024. Subsequently, she was arrested on 08.08.2024 and since then she is behind bars. The petitioner approached the Learned Judge, Special Court, Tarn Taran praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Tarn Taran vide order dated 27.11.2024. Aggrieved by the same, the petitioner earlier approached twice this Court by way of filing of CRM-M-1847-2025 and CRM-M-21632-2025, however, the same were declined by this Court vide orders dated 20.01.2025 and 30.04.2025, respectively. Hence, petitioner is before this Court by way of filing of present third 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 the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that as per the case of the prosecution, the recovery has been effected from personal search of the petitioner but there is blatant



violation of provisions of Section 50 of NDPS Act. He submits that though the contraband of 1000 intoxicant tablets was recovered from the envelope but from her personal search Rs.14000/- as drug money was recovered from the pocket of the undershirt. He submits that the recovery has been effected totally in violation of the mandatory provisions of NDPS Act. He submits that though petitioner is involved in 02 other cases, however, she is on bail in those cases. He submits that the petitioner is behind bars from last 1 ½ years, however, no witness has been examined by the prosecution. 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 on the due compliance of provisions of NDPS Act, 338 grams of tramadol was recovered from the petitioner, which is a commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted in the present case. He submits that the petitioner is a habitual offender as she is involved in 02 more cases of similar nature. He, on instructions, has submitted that out of total 07 prosecution witnesses, none has been examined so far. He has produced the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner in the present was earlier arrested on 16.07.2021. Though she was granted bail by learned trial Court, however, as she remained absented she was declared a proclaimed offender and thereafter, she was again arrested on 08.08.2024. It has been vehemently contended before this Court that there is violation of mandatory provisions of 50 of NDPS Act, as the recovery has been effected from her personal search. As per custody certificate, the petitioner has suffered incarceration



of 01 year, 06 months and 05 days as on 27.11.2025. Though the petitioner is involved in 02 more case, however, she is on bail in those cases. As submitted before this Court, out of total 07 prosecution witnesses, none has been examined till date.

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. 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.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her 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.

28.11.2025
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(RAJESH BHARDWAJ)
JUDGE

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