



CRM-M-43663-2025

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

CRM-M-43663-2025

Date of Decision: 19.08.2025

Balkar Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rahul Verma, Advocate, for the petitioner.

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.25 dated 15.04.2024 under Sections 22/29 of NDPS, 1985, registered at Police Station Lambra, District Jalandhar.

2. Succinctly, facts of the case are that on 15.04.2024, the police party while on patrolling, saw a motorcycle coming, on which three persons were riding. On seeing the police, they got perplexed and tried to turn back the motorcycle, but in the process they fell down. On suspicion, they were apprehended. On asking, the rider of the motorcycle disclosed his name to be Yuvraj Singh, the person sitting behind told his name to be Balkar Singh @ Gora (petitioner) and the person sitting at the end, disclosed his name to be Amritpal Singh @ Aman. They were given offer for search. They posed full faith in the police party. On conducting search of pocket of trouser of Yuvraj Singh, 300 intoxicant tablets were recovered. They failed to produce any licence regarding possession of the same and thus, on the registration of the FIR, they were arrested on the spot. The samples taken were sent to the FSL. On receipt of the FSL report, challan was presented and on framing of charges, trial commenced. The petitioner approached the Court of learned



Judge, Special Court, Jalandhar 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 06.11.2024. 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 and no independent witness has been joined. He submits that as per the case of the prosecution, there were three accused including the petitioner, however, they were given a joint offer to be searched, which vitiates the provisions of Section 50 of NDPS Act. He submits that the alleged recovery has been effected from co-accused Yuvraj Singh and no contraband has been recovered from the petitioner. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case of similar nature. He submits that the petitioner is behind bars since 15.04.2024, however, there is no material progress in the trial till date. 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 all the three accused were arrested while they were going on motorcycle. Their search was conducted on due compliance of provisions of Section 50 of the NDPS Act. He submits that samples were sent to the FSL and as per the report of the FSL, the contraband was found to be weighing 30.60 grams of



Etizolam, which falls under the commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, he has submitted that out of 15 prosecution witnesses, 04 witnesses have been 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 inferred that the alleged recovery has been effected from personal search of co-accused Yuvraj Singh. The petitioner is behind bars since 15.04.2024. As submitted before this Court, 04 witnesses have been examined out of 15 prosecution witnesses. The custody certificate would show that the petitioner has suffered incarceration of 01 year & 04 months as on 17.08.2025. Though the petitioner is involved in one more case i.e. FIR No.24 dated 09.03.2013 under Sections 363, 366-A, 376, 120-B IPC, however, he is not involved in any other case of similar nature i.e. 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 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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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.*

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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 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.

8. 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.

9. 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.
10. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.08.2025		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No