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

**CRM-M No.44456 of 2025
Date of Decision: 21.08.2025**

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

Present :- Mr. Damanjit Singh Sandhu, Advocate
for the petitioner.

Ms. Simran Gorla, Asstt. A.G., Punjab.

***********RAJESH BHARDWAJ, J. (Oral)**

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.115, dated 06.07.2024, under Sections 21/22/61 of NDPS Act, 1985, registered at Police Station Garhshankar, District Hoshiarpur, Punjab.

2. Succinctly the facts of the case are that the police party, while on patrolling on 06.07.2024, saw a young man and a woman standing with a bullet motorcycle. On seeing the police, both starting escaping on their motorcycle. While escaping, driver of the motorcycle threw a black colour bag on the left side of the road whereas the woman threw a purse, which she was holding in her hand. The police chased them and thereafter both of them were apprehended. Driver of the motorcycle, on asking, disclosed his name to be Ajit Kumar @ Bhiri whereas the woman disclosed her name to be Rajwinder Kaur (petitioner). The bag and purse thrown by



them were searched. On searching the black colour bag thrown by Ajit Kumar, Rs.1 Lac drug money, one I phone 7, two polythene envelopes, i.e. black and white colour were recovered. From the search of white colour envelope, 210 grams of heroin was recovered and from the search of black colour envelope, 06 strips each containing 15 intoxicant tablets mark Etozlam, weighing 0.5 mg were recovered. Whereas from the search of the purse thrown by the petitioner, 12 Buprenorphine injections were recovered. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of FSL report, the challan was presented and on weighing the injections recovered from the petitioner, the same was found to be 24 ml. The petitioner approached the Court of learned Judge, Special Court, Hoshiarpur praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Hoshiarpur declined the petition filed by the petitioner vide order dated 09.08.2024. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-53557-2024 praying for the grant of bail, however the same was dismissed as not pressed vide order dated 05.11.2024. Hence being aggrieved, the petitioner is again before this Court praying for the grant of bail by way of filing the present second petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery has been effected from the public place, however no independent witness was joined. He has submitted that



even otherwise, there is a violation of mandatory provisions of Section 50 of NDPS Act in conducting the search. He has submitted that the recovery has been planted upon the petitioner as is evident from the facts and circumstances of the case. He has submitted that the petitioner is behind bars since the date of her arrest, i.e. 06.07.2024, however there is no progress in the trial and thus, the right of speedy trial has been defeated. He has submitted that though the petitioner was falsely involved in 03 other cases, however she is on bail. He has submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. She has submitted that the petitioner was arrested on the spot. She has submitted that 12 injections of Buprenorphine, total weighing 24 ml was recovered from the petitioner, which is a commercial quantity, and thus, the provisions of section 37 of NDPS Act are attracted. She has submitted that the petitioner is a habitual offender as she is involved in 03 other cases. She, on instructions, has submitted that out of 12 prosecution witnesses, no witness has been examined till date. She has placed on record custody certificate of the petitioner today in the Court and the same is taken on record.

5. Heard.

6 On hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested in the present case on the spot on 06.07.2024 and since then, she is behind bars. The recovery effected is 24 ml of Buprenorphine, which is a commercial quantity. Custody certificate produced would show that the petitioner has completed incarceration of 01 year, 01 month and 12 days as on



20.08.2025. It further reflects that the petitioner is involved in 03 other cases, however in 02 of the cases, she is on bail and in 01, she has been acquitted. Out of 12 prosecution witnesses, no witness has been examined till date.

7. 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:-

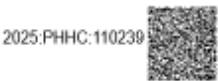
19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether; resulting in punitive detention and unsanctioned preventive detention as 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.”

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.

9. 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. 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.

21.08.2025

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

(RAJESH BHARDWAJ)
JUDGE