

CRM-M-44281-2025

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

CRM-M-44281-2025

Date of decision : 21.08.2025

Deepak @ Deep**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Manvinder Sidhu, Advocate
for the petitioner.

Ms. Diya Sodhi, Sr. D.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present third petition has been filed for grant of regular bail to the petitioner in case FIR No.0032 dated 29.01.2024, under Section 21-C/61 of NDPS Act, registered at Police Station Sirsa Sadar, District Sirsa.

2. Succinctly the facts of the case are that on 29.01.2024, the police party while on patrolling, received a secret information to the effect that Vijay S/o Dalip @ Lala Ram was involved in business of selling heroin. It was informed that he had gone to Delhi in a hired vehicle No.HR-56B-5869 to bring heroin and will come back to Sirsa with a large quantity of heroin. In case the barricading is laid, he could be arrested along with the contraband. On receiving the information, the raiding party was constituted and barricading was laid on NH-9 under the bridge of village Sikanderpur. Thereafter, a car as disclosed was seen coming in which two young boys were sitting. They were apprehended and on asking, the driver of the car disclosed his name as Deepak @ Deep

(present petitioner), whereas the boy sitting with him disclosed his name as Vijay S/o Dalip @ Lala Ram. They were suspected to be carrying some contraband and thus, their personal search was conducted. On conducting search of Vijay, a transparent plastic envelope from the front pocket of the sweatshirt worn by him, 501 grams of heroin was recovered and on conducting the search of driver i.e. petitioner, nothing was recovered. They failed to produce any licence regarding the possession of the same and thus, they were arrested on the spot. On registration of FIR, investigation commenced. Samples taken from the contraband were sent to FSL. On receiving the FSL report, challan was presented and on framing of charges, the trial Court commenced with the trial. The petitioner approached the learned Additional District and Sessions Judge, Sirsa for grant of bail, however, after hearing both the sides, the same was declined by the learned trial Court vide order dated 08.08.2024. Aggrieved by the same, the petitioner earlier approached this Court twice by way of filing of CRM-M-29840-2024 and CRM-M-12924-2025, however, the same were dismissed as not pressed. Hence, the petitioner is before this Court by way of filing the present third petition.

3. It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that the case of the prosecution is based on secret information, which was received *qua* co-accused, namely, Vijay and not *qua* the present petitioner. He submits that the petitioner was the driver of the car, who had no concern with the offence committed. To buttress his arguments, he submits that even while conducting the personal search of the petitioner and co-accused, regarding whom the secret information was received the said contraband was recovered from him, whereas from the

petitioner nothing was recovered. He submits that the petitioner is behind bars and he has completed an incarceration of more than 1 ½ years, however, there is no material progress in the trial. He submits that right of the petitioner of speedy trial has been miserably defeated. He submits that the petitioner has been falsely implicated in 02 other cases, however, he is on bail in those cases. It is, thus submitted that in the facts and circumstances of the present case, he deserves to be granted regular bail.

4. Per contra, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He submits that though the secret information was regarding co-accused, Vijay, however, petitioner was the driver of the car. On conducting the search of co-accused, namely, Vijay, 501 grams of heroin was recovered, which is a commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted in the present case. She submits that the petitioner was the driver of the same car in which the co-accused was travelling. She, on instructions, has submitted that out of 22 prosecution witnesses, none has been examined so far. She has produced the custody certificate of the petitioner in the Court.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the present FIR was lodged on the basis of secret information received *qua* co-accused Vijay. Though petitioner was travelling in the same car, however, the recovery was effected from the co-accused. The perusal of the custody certificate shows that the petitioner has suffered incarceration of 01 year, 06 months and 22 days as on 20.08.2025. It further reflects that the petitioner is involved in 02 more 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 the 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. 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 Court/Duty Magistrate.

9. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

(RAJESH BHARDWAJ)
JUDGE

21.08.2025

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