



242+254 (2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-45560-2025

Ajay KumarPetitioner

versus

State of Punjab Respondent

2. CRM-M-58451-2025

Karamjeet Kumar @ Karamjit KumarPetitioner

versus

State of Punjab Respondent

Date of decision : 03.12.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Monty Goyal, Advocate
for the petitioner in CRM-M-45560-2025.

Mr. D.S. Saini, Advocate
for the petitioner in CRM-M-58451-2025.

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

RAJESH BHARDWAJ, J. (Oral)

1. By way of this common order, this Court intend to dispose of
abovesaid two petitions as they have arisen out of the same FIR.

2. Petitioners have approached this Court by way of present
petitions praying for granting them regular bail in case FIR No.115 dated
28.10.2024, under Sections 21(c)/25/29 of Narcotic Drugs and Psychotropic
Substances Act, 1985, registered at Police Station Shimlapuri, District
Ludhiana.



3. Succinctly, the facts of the present case are that the police party, while on patrolling on 28.10.2024, received a secret information to the effect that Ajay Kumar and Karamjeet Kumar were involved in smuggling of heroin. It was informed that they were sitting in their Swift car bearing No.PB10JR2164 parked adjoining to Chapati Park situated at Chimni Road. The Police reached at the place disclosed and 02 persons were found sitting in the car. On seeing the police, both of them threw heavy polythene on their respective sides. Both were apprehended by the Police. On asking, the driver of the car disclosed his name to be Ajay Kumar (petitioner in CRM-M-45560-2025) whereas the person sitting on the adjoining seat disclosed his name to be Karamjeet Kumar (petitioner in CRM-M-58451-2025) . They were suspected to be carrying some contraband in the polythene being thrown by them, thus, the same were searched. On conducting the search, from the polythene thrown by Ajay Kumar, 255 grams of heroin and from the polythene thrown by Karamjeet Kumar, 260 grams of heroin, were recovered. Both failed to produce any licence regarding possession of the same and hence, the FIR was registered and they were arrested on spot. The investigation commenced. The samples taken were sent to the FSL. On receipt of FSL report, challan was presented and on framing of charges, the trial commenced. The petitioners approached the Learned Judge, Special Court, Ludhiana praying for grant of bail, however, finding no merit, their applications were declined after hearing both the sides by Learned Judge, Special Court, Ludhiana vide orders dated 04.02.2025 and 13.02.2025, respectively. Aggrieved by the same, petitioner-Ajay Kumar earlier approached this Court by way of filing of CRM-M-8456-2025 which was dismissed as withdrawn on 30.04.2025, hence, he is before this Court by



way of filing of second petition, whereas CRM-M-58451-2025 is the first petition filed by petitioner-Karamjeet Kumar, praying for grant of bail.

4. Learned counsels for the petitioners have contended that the present FIR has been registered on the basis of secret information. It is submitted that there is violation of Section 42 of the NDPS Act. He submits that the alleged recovery of the contraband was effected from the polythene which were thrown and thus, the conscious possession is also not proved. He submits that the compliance of Section 50 of NDPS Act, was mandatory however, there is blatant violation of the same as well. It is submitted that as per the Schedule of NDPS Act, quantity above 250 grams is commercial quantity whereas the alleged recoveries from both the petitioners is 255 grams and 260 grams, respectively, which are marginally above the commercial quantity. To buttress the arguments, it is submitted that the petitioners have no criminal antecedents as they have never been involved in any other case. It is thus, submitted that in the facts and circumstances of the case, petitioners deserve to be granted bail.

5. Learned State counsel has opposed the submissions made by the counsel for the petitioners and submits that both the petitioners were specifically named in the FIR and both were arrested on the spot. He submits that the total alleged recovery effected from both the petitioners in the present case is 515 grams of heroin, which is a commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted. He, on instructions, has submitted that out of total 12 prosecution witnesses, only 01 witness has been examined so far. He has produced the custody certificates of the petitioners on record.

6. On hearing counsel for the parties and perusing the record, it is deciphered that the petitioners were arrested on 28.10.2024. The alleged



total recovery effected from both the petitioners is 515 grams of heroin which is a commercial quantity. As per custody certificate, petitioners have suffered incarceration of 01 year, 01 month and 01 day as on 02.12.2025. It further reflects that the petitioners have no criminal antecedents. As submitted before this Court, out of total 12 witnesses, only 01 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.
9. This Court would refrain itself from commenting anything on the merits of the case. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, both the petitions are allowed. Petitioners are ordered to be released on bail on their 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.

03.12.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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