



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-47332-2025
Date of Decision: 02.09.2025

MOHAMMAD AMJAD @ NAAG

....PETITIONER

Versus.

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: - Mr.Satnam Singh Gill, Advocate, for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.29 dated 12.03.2023 under Sections 21 of the NDPS Act (Section 29 of the NDPS Act added later on), registered at Police Station City II, Malerkotla, District Malerkotla.
2. Succinctly, facts of the case are that on 07.03.2024, while the police party was on patrolling, a secret information was received to the effect that Mohammad Amjad @ Naag (petitioner) and Mohammad Ashraf son of Mohammad Sharif Chibba were involved in selling chitta (Heroin). It was informed that both of them are present in an open place on their motorcycle in the backside of Mama Ji Mosque for selling chitta. If the raid is conducted, they could be arrested. On receiving secret information, police reached the spot and as disclosed, two persons along with their motorcycle were found present. Both of them were apprehended and on asking they disclosed their names to be Mohammad Amjad @ Naag (petitioner) and Mohammad Ashraf. They were suspected to be carrying some contraband and thus search was conducted. On conducting search, 260 grams of Heroin

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was recovered. They failed to produce any license regarding the same and thus, they both were arrested on the spot. Investigation commenced. Samples were taken and sent to the FSL. On receiving the FSL report, challan was presented and after framing of charges trial commenced. Petitioner approached learned Special Court, Malerkotla for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned special Judge, Malerkotla vide order dated 12.06.2023. Earlier he approached this Court for grant of bail by way of CRM-M-52690-2023 and CRM-M-65073-2024, but the same were dismissed as withdrawn on vide orders dated 16.04.2024 and 10.01.2025, respectively. The petitioner has approached this Court by way of present third petition praying for the grant of regular bail.

3. It is vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. It is submitted that there is a violation of Section 42 of the NDPS Act. It is further submitted that search has been conducted in violation of Section 50 of the NDPS Act. It is submitted that no independent witness has been joined at the time of search. It is submitted that petitioner is behind the bars from the last more than 2½ years, however, the trial is not yet completed. He has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case. It is submitted that his fundamental rights are being defeated. He has further submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. Per contra, learned counsel for the State, on instructions, submits that out of total 20 witnesses, 9 witnesses remains to be examined. He has produced the custody certificate of the petitioner today in Court and

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the same in taken on record. He submits that even otherwise recovery of 260 grams of heroin is commercial.

5. On hearing, it is deciphered that the contraband recovered from the petitioner is of commercial quantity. Out of 20 witnesses, 9 witnesses remain to be examined. Custody certificate produced would show that the petitioner has suffered incarceration of 02 year 05 months and 17 days and he is involved in four other cases and is on bail in all of them.

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 trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. The Hon’ble Supreme Court in **Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695** has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot



be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in **Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024**, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Thus, keeping in view the arguments raised by both the sides, 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.

9. 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.

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

02.09.2025
Vivek

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No