



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

1. CRM-M-57028-2022

Balram SinghPetitioner

versus

State of Punjab Respondent

2. CRM-M-48128-2023

Gaurav @ GoravPetitioner

versus

State of Punjab Respondent

Date of decision : 27.03.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sarfaraz Gill, Advocate for
Mr. Keshav Pratap Singh, Advocate
for the petitioner in CRM-M-57028-2022.

Mr. Vineet Kumar Jakhar, Advocate and
Mr. Gurminder Singh Phull, Advocate
for the petitioner in CRM-M-48128-2023.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. By way of this common order, I 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.296 dated 12.12.2021, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lehra, District Sangrur.

3. Succinctly the facts of the case are that the Police received a secret information on 12.12.2021 to the effect that Gaurav S/o Baljit and



Balram Singh S/o Rajvir Singh were involved in selling of narcotics tablets in Punjab. It was informed that they were coming to Lehra through Jakhal in their car. The description of both of them was also given. On receiving the information, Ruqa was sent and barricading was laid. The car, as disclosed was seen coming. One of the person who was sitting on the side seat tried to throw a bag outside the car but the car was stopped then both the inmates were apprehended. On asking, driver of the car disclosed his name as Gaurav whereas the person sitting on the side seat disclosed his name as Balram. On the search 33,000 intoxicant tablets labeled as Tramwel SR-100 were recovered. They failed to produce any license regarding possession of the same and hence the FIR was registered and the petitioners were arrested on spot. The investigation commenced and samples taken from the contraband were sent to FSL. Petitioners approached the Learned Judge, Special Court, Sangrur praying for grant of bail, however, finding no merit, their applications were declined after hearing both the sides by Learned Judge, Special Court, Sangrur vide order dated 11.02.2022. Aggrieved by the same, petitioner-Gaurav @ Gorav earlier approached this Court by way of filing CRM-M-28870-2022 for grant of interim regular bail, and the same was disposed of vide order dated 07.07.2022, passed by this Court, hence, this is the second petition filed by him. Whereas, the present one is the first petition filed by petitioner-Balram Singh, praying for grant of bail.

4. Learned counsel for the petitioner(s) have vehemently contended that the petitioners have been falsely implicated in the present case. It is submitted that as per case of the prosecution, the FIR is registered on the basis of secret information, however, there is gross violation of mandatory provisions of Section 42 of NDPS Act. It is



submitted that there is a violation of Section 50 of NDPS Act as well. It is submitted that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency at the time of recovery. It is submitted that the petitioners have no criminal antecedents as they have never been involved in any other case. It is submitted that the petitioners are behind bars from last more than 03 years. It is submitted that in the facts and circumstances of the case, petitioners deserve to be granted bail.

5. Learned State counsel, on instructions, has opposed the submissions made by counsel for the petitioners. He submits that both the petitioners were duly named in the secret information and it is only on due compliance of Sections 42, the barricading was laid wherein petitioners were apprehended and on the search of their car heavy quantity of contraband i.e. 33000 tablets of Tramwel SR-100, were recovered. He submits that the contraband recovered from the petitioners weighing 12.28 kgs, falls under the commercial quantity and thus, the provisions of Section 37 of NDPS Act, are attracted in the present case. He has further submitted that delay in trial is not because of the prosecution as the petitioner-Gourav, himself had approached this Court by way of filing CRM-M-39692-2022 challenging the order dated 16.08.2022 declining his application for supply of final report etc. in hindi language, in which trial Court vide order dated 02.09.2022 was directed to adjourn the case beyond the date fixed by the said Court, which was finally disposed of vide order dated 20.11.2024. He has produced the custody certificate of the petitioners in the Court. He further submits that challan has been presented, however, charges are yet to framed.



6. On hearing counsel for the parties and perusing the record, it is deciphered that the FIR was registered on the basis of secret information and the petitioners are behind bars since 12.12.2021. Custody certificate produced, would reflect that the petitioners have completed the incarceration of 03 years, 3 months and 11 days as on 26.03.2025. It further reflects that petitioner-Gaurav is not involved in any other case except the present one. So far as petitioner-Balram Singh is concerned, he is facing prosecution in one more case i.e. under the Prisons Act, however, he is on bail in that case. This Court cannot ignore the fact that custody of the petitioners is more than 03 years and the trial is at the initial stage, as only challan is presented.

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. 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.

9. Photocopy of this order be placed on the file of other connected cases.

(RAJESH BHARDWAJ)
JUDGE

27.03.2025
ps-I

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