

CRM-M-48891-2025
CRM-M-68098-2025

1

230+241 (2 cases)

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

1. CRM-M-48891-2025

Gurcharan Singh @ GanjaPetitioner

versus

State of Punjab Respondent

2. CRM-M-68098-2025

Gurjant Singh @ JantaPetitioner

versus

State of Punjab Respondent

Date of decision : 09.12.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kamal Narula, Advocate
for the petitioner in CRM-M-48891-2025.

Mr. Dinesh Trehan, Advocate
for the petitioner in CRM-M-68098-2025.

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.56 dated 03.05.2024, under Sections 21, 29/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kot Isse Khan, District Moga, Punjab.



CRM-M-48891-2025
CRM-M-68098-2025

2

3. Succinctly, the facts of the present case are that the police party, while on patrolling on 03.05.2024, received a secret information to the effect that Gurcharan Singh @ Ganja (petitioner in CRM-M-48891-2025), Gurjant Singh @ Janta (petitioner in CRM-M-68098-2025) and Sandeep Singh were habitual of selling heroin. It was informed that they would come in their Swift Dzire car bearing No.PB-04-AB-1707 from the side of Kot Isse Khan along with the contraband and in case the barricading is laid, they could be apprehended along with the contraband. On receiving the secret information, the police party reached at the place disclosed. A car was seen coming and on suspicion, the same was stopped by the police party. On asking, driver of the car disclosed his name to be Gurcharan Singh @ Ganja, person sitting on the adjacent seat disclosed his name to be Sandeep Singh and person sitting at the rear seat, disclosed his name to be Gurjant Singh @ Janta. They were suspected to be carrying some contraband thus, the search was conducted. On conducting the search, 1.5 kgs of heroin was recovered from the dashboard of the car. They 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. Petitioner-Gurcharan Singh @ Ganja approached the Learned Judge, Special Court, Moga and Petitioner-Gurjant Singh, approached Ld. Additional Sessions Judge, Moga, praying for grant of bail, however, finding no merit, their applications were declined after hearing both the sides by Learned trial Courts vide orders dated 24.02.2025 and 05.08.2024, respectively. Aggrieved by the same, petitioner-Gurjant Singh @ Janta earlier approached this Court twice by

CRM-M-48891-2025
CRM-M-68098-2025

way of filing of CRM-M-42705-2024 and CRM-M-34640-2025, however, same were dismissed as withdrawn vide orders dated 28.04.2025 and 10.07.2025, respectively. Hence, he is before this Court by way of filing of present third petition. Qua petitioner-Gurcharan Singh @ Ganja, this the first petition 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. It is submitted that the conscious possession in itself is 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. To buttress his 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 secret information and were arrested on the spot. He submits that the total alleged recovery effected from both the petitioners in the present case is 1 Kg and 500 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 18 prosecution witnesses, 05 witnesses still remain to be examined. 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 FIR in the present case was lodged on the basis of secret information. The petitioners are behind bars since the date of their arrest i.e. 03.05.2024. The alleged total recovery effected from the

petitioners is 1 kgs and 500 grams of heroin which is a commercial quantity. As per custody certificate, petitioners have suffered incarceration of 01 year, 07 months and 02 day as on 08.12.2025. It further reflects that the petitioners have no criminal antecedents. As submitted before this Court, out of total 18 witnesses, 05 witnesses still remain to be examined. Needless to say that speedy trial is the fundamental right of every accused.

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. 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.”

10. 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



CRM-M-48891-2025
CRM-M-68098-2025

6

crime may be, an accused has the right to speedy trial under the Constitution of India.

11. 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.

09.12.2025
ps-I

(**RAJESH BHARDWAJ**)
JUDGE

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