



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

1. CRM-M-52793-2024

Harcharan Singh @ CharnaPetitioner

versus

State of Punjab Respondent

2. CRM-M-59115-2024

Jasveer Singh @ Jasvir Singh @ BabbiPetitioner

versus

State of Punjab Respondent

Date of decision : 19.03.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rehat Bir Singh Mann, Advocate
for the petitioner in CRM-M-52793-2024.

Mr. Saurabh Kapoor, Advocate
for the petitioner in CRM-M-59115-2024.

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 second petitions praying for granting them regular bail in case FIR No.101 dated 27.07.2022, under Sections 22-C of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Raman, District Bathinda.

3. Succinctly the facts of the case are that the Police party while on patrolling on 27.07.2022 at about 7:40 PM spotted two persons coming from the side of village Desu Malkana. They were carrying kit bags with them. On suspicion, they were stopped and were asked about their names.



First person disclosed his name as Jasveer Singh @ Babbi, whereas second person disclosed his name as Harcharan Singh @ Charna. On suspicion they were given an offer to be searched and on conducting the search of the kit bag being carried by Jasveer Singh @ Babbi, 6000 Lomotil (Diphenoxylate Hydrochloride & Atropine Sulphate tablets) were recovered and so far as Harcharan is concerned, from his kit bag 2100 tablets of Lomotil 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. Samples were taken from both the contraband recovered from their bags and were sent to FSL. On receiving the FSL report, challan was presented. Petitioners- Harcharan Singh @ Charna approached Ld. Additional Sessions Judge, Bathinda and Jasveer Singh @ Jasvir Singh @ Babbi, approached the Learned Judge, Special Court, Bathinda praying for grant of bail, however, finding no merit, both the applications were declined after hearing both the sides by the trial Courts vide order dated 29.09.2022 and 19.09.2022, respectively. Aggrieved by the same, petitioners earlier approached this Court by way of filing CRM-M-56260-2023 and CRM-M-6573-2024, however, both were dismissed as withdrawn vide order dated 14.05.2024, passed by this Court. Hence, the petitioners are before this Court by way of filing of present second petition.

4. Learned counsel for the petitioner(s) has vehemently contended that the petitioners have been falsely implicated in the present case. It is submitted that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. It is submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act in carrying out the search. It is also



submitted that the samples were taken in violation of the mandatory provisions of the Act. They submit that petitioners have no criminal antecedents, however, till date the prosecution has not been able to conclude the trial. 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 the counsel for the petitioners and submits that the search was carried out on due compliance of Section 50 of the NDPS Act. He submits that the recovery effected from both the petitioners were found to be commercial in nature and the weight of the contraband recovered from the possession of Harchana Singh, was found to be 130 grams of Diphenoxylate Hydrochloride and from Jasveer Singh, it was 370.80 grams and hence, the provisions of Section 37 of NDPS Act, are attracted in the present case. He submits that majority of the witnesses have already been examined and only 02 witnesses remains to be examined. He has produced the custody certificate of the petitioners in the Court. He thus submits that no case for grant of bail to the petitioners, is made out.

6. On hearing counsel for the parties and perusing the record, it is deciphered that the recovery from the petitioners were carried out from the kit bags which each of the petitioner was allegedly carrying. On presentation of the challan and framing of charges, the trial is in progress. As submitted by learned State counsel, only 02 witnesses remain to be examined, however, the same has been controverted by the learned counsel for the petitioner. The custody certificate produced, would reflect that petitioner-Jasveer Singh @ Jasvir Singh @ Babbi has suffered an incarceration of 02 years, 07 months and 17 days as on 18.03.2025, whereas petitioner-Harcharan Singh @ Charna has suffered an



incarceration of 01 year, 09 months and 02 days as on 18.03.2025. The petitioners have no criminal antecedents.

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.

19.03.2025
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(RAJESH BHARDWAJ)
JUDGE

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