

2025:PHHC:097115



223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56059-2024
Date of Decision: 31.07.2025

Balbir Singh @ Balvir Singh ...Petitioner

Versus

Union of India ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. S.S. Sarwara, Advocate
for the petitioner(s).

Mr. Sourabh Goel, Special Public Prosecutor, NCB-DRI with
Mr. Anju Bansal, Advocate and
Mr. Deify Jindal, Advocate
for the respondent-NCB.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in complaint No.COMA-8-2023 in F.DRI/CHD-RU/855/Inv-01/NDPS/2023 dated 19.09.2023 registered on 20.09.2023 under Sections 8(8)/20/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Place of Seizure: Dera Bassi (Dappar) Toll.

2. Succinctly, facts of the case are that on 23.03.2023, Directorate of Revenue Intelligence, Regional Unit, Chandigarh (DRI) received a secret information to the effect that one Tata truck bearing registration No.PB10CY4559 was coming towards Dera Bassi from Ambala side and would try to smuggle Cannabis (ganja). If raid is conducted, a heavy quantity of Cannabis can be recovered from the same. On receiving the secret information, raiding party was constituted and the raid was conducted at the place disclosed. The truck as

informed in the intelligence received was sighted and was stopped. The driver of the truck, on asking disclosed his name as Balbir Singh (petitioner). He was suspected to be carrying some contraband in the truck. Thus, after giving offer for the search, the same was conducted and from the truck 16 gunny bags were recovered from which 335 packets of Cannabis (ganja) were recovered and on weighing the same, total 524.02 Kg. Cannabis (ganja) was found therein. He failed to produce any licence regarding possession of the same. Hence, he was arrested on the spot and on registration of the FIR, the investigation commenced and recovered substance was sent to the FSL lab and the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of Ld. Judge, Special Court, SAS Nagar, praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 30.05.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been roped in the present case on the basis of the secret information. He submits that the present case is based on the secret information, however, there is violation of Section 42 of the NDPS Act. He submits that there is violation of Section 50 of the Act as well. To buttress his arguments, he further submits that admittedly out of 16 gunny bags, 335 packets were recovered whereas the sample had been taken only from 16 packets and not from all 335 packets. He submits that the recovery effected is also vitiated in the present case. He submits that the petitioner has no criminal antecedents. It is submitted that the petitioner has completed incarceration of more than two years, but there is no progress in the trial. He, thus, submits that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that specific intelligence was received about the truck in which the petitioner was found as he was driving the said vehicle so he was apprehended. He submits that during investigation it was found that truck was owned by the wife of the petitioner. It is submitted that on due compliance of Section 42 and 50 of the NDPS Act recovery of total 524.02 Kg. Cannabis (ganja) was effected from the petitioner, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that out of total 14 prosecution witnesses, 04 witnesses have been examined so far. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the present FIR has been lodged on the basis of the secret information. The petitioner was arrested on the spot i.e. on 23.03.2023. Out of total 14 prosecution witnesses, 04 witnesses have been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 02 years, 03 months & 03 days. The petitioner has no criminal antecedents.

6. 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

21it 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. As per law settled, 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.”

8. 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.

9. 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.

10. 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.

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

31.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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