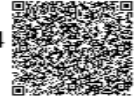


CRM-M-140-2023 (O&M)

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

2025:PHHC:068474



**CRM-M-140-2023 (O&M)
DATE OF DECISION : 21.05.2025**

**KARNAIL SINGH ALIAS KALA
V/S**

... PETITIONER

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lavanya Gupta, Advocate for the petitioner.

Mr. J.S.Arora, DAG Punjab.

* * *

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present 2nd petition praying for grant of regular bail in case FIR No.35 dated 10.04.2021 under Sections 22 and 25 of NDPS Act, 1985 registered at Police Station Barnala, District Barnala.

2. Succinctly, facts of the case are that the police received a secret information that Mani resident of Bijalpur along with his companion Karnail Singh @ Kala (present petitioner) used to bring intoxicant tablets to supply in the area of Districts of Sangrur and Barnala. It was informed that they were coming in a white colour swift car bearing No. DL-1CN-1106 carrying intoxicating tablets and if barricading is laid, then they can be arrested along with the contraband. On receiving the secret information, the ruqa was sent and the raiding team was constituted and reached at the place disclosed where Karnail Singh was found with the car whereas the second person has escaped, who later on found to be Mani. On the suspicion, the search of the

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car was conducted, in which the boxes were lying. On conducting the search of the boxes 1,20,000 tablets of Alprazolam and 35,000 intoxicating tablets of Tramadol were recovered. Thus, in total, 1,55,000 intoxicating tablets were recovered from the car. The petitioner Karnail Singh failed to produce any licence regarding the possession of the same and thus, he was arrested on the spot. On registration of FIR, investigation commenced. Samples taken were sent to the FSL. On conclusion of investigation, challan was presented and on framing of charges, trial commenced. The petitioner approached the trial Court praying for grant of bail. However, the same was declined by the learned Special Court, Barnala vide order dated 22.10.2021. Aggrieved, the petitioner had approached this Court by way of filing a petition for bail the same was allowed to be withdrawn vide order dated 14.11.2022. Hence, the petitioner has again approached this Court praying for grant of bail by way of filing the present second petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that evidently the FIR has been lodged on the basis of secret information, however, there is a violation of Section 42 of the NDPS Act. He submits that the petitioner is not even the owner of the car and thus, there is a violation of Section 50 of the NDPS Act as well. He further submits that no independent witness has been joined at the time of recovery. He submits that the petitioner is behind bars since the date of his arrest i.e. 10.04.2021 till date. The prosecution has not been able to conclude the trial and thus, his incarceration is being prolonged and his right of speedy trial is being defeated. He submits that in all there are 3 accused and rest of the co-accused are already on bail.

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4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was apprehended on the basis of the secret information received and in compliance of the statutory provisions of the NDPS Act, recovery of total, 1,55,000 intoxicating tablets from the car in which the petitioner was travelling, was effected which falls under the commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in the present case. He has placed on record the custody certificate of the petitioner and submits that the petitioner is involved in two other cases as well. On instructions, he submits that out of 20, 10 prosecution witnesses have been examined, 5 have been given up and thus, 5 witnesses remain to be examined.

5. After hearing counsel for the parties and perusing the record, it is inferred that the petitioner is behind bars since the date of his arrest i.e. 10.04.2021. Out of 3 accused, remaining 2 are already on bail. The custody certificate produced would show that he is suffering incarceration of 3 years, 08 months and 24 days as on 20.05.2025. 5 prosecution witnesses still remain to be examined. It is further reflected in the custody certificate that the petitioner is involved in two other cases, however, he is on bail in those cases.

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:-

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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 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

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commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, 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.

8. 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.

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

21.05.2025

Janki

**(RAJESH BHARDWAJ)
JUDGE**

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