

**CRM-M-55562-2024**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Sr. No. 206****CRM-M-55562-2024 (O&M)****Date of Decision:07.03.2025**

Arun Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJPresent: Mr. KPS Virk, Advocate
for the petitioner.

Mr. Tanu Sharma, AAG, Haryana

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RAJESH BHARDWAJ, J.(ORAL)

1. Present petition has been filed for grant of regular bail in case FIR No.304 dated 16.08.2022, under Sections 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 27(a) & 29 of NDPS Act added subsequently), registered at Police Station Badshahpur, District Gurugram.

2. Succinctly the facts of the case are that on 16.08.2024 a secret information was received to the effect that Chaitram resident of Fazilpur, has built many rooms in Fazilpur Ki Dhani and has given all those rooms on rent. It was also informed that out of the same, Pammi wife of Arun, the present petitioner, resident of Fazilpur Ki Dani, District Gurugram has kept one room on rent on first floor in the Dhani, wherein a large amount of intoxicant ganja is kept. She sells the illegal intoxicant ganja and in case of raid, the contraband could be recovered. On receiving the secret information, ruqa was sent and a raiding team was constituted and raid was conducted, where a woman, who disclosed her name as Pammi, wife of the present

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petitioner met there and she was apprised of the information received. The search of the room was conducted and on checking, two plastic bags were found and out of the same, one bag was weighing 26 kgs and 310 grams, whereas in second bag 2 kg and 350 grams of ganja, totalling 47.090 kgs. was recovered. She failed to produce any permit or licence for keeping the same. She was arrested.

3. On registration of FIR, investigation was commenced and during investigation, disclosure statement of Pammi was recorded wherein name of the present petitioner has surfaced and hence he was also arrayed as an accused in the present case. He was arrested on 21.09.2022.

4. The petitioner has approached before learned Additional Sessions Judge, Gurugram for grant of bail, however, on hearing of both the sides, bail application was rejected vide order dated 04.10.2024.

5. Aggrieved by the same, the petitioner also approached this Court by way of filing of four petitions. However, the same were allowed to be dismissed as withdrawn.

6. Learned counsel for the petitioner submits that the present petition seeking grant of regular bail is the 5th petition. He also submits that the petitioner has been falsely implicated in the present case and he has been arrested on the basis of disclosure statement made by his wife. He further submits that the case of the prosecution is based on secret information wherein the name of his wife had been mentioned, however, the petitioner was not even named in the secret information. He also submits that there is violation of mandatory provisions of Sections 42 and 50 of NDPS Act in the present case. To substantiate his arguments, he submits that the petitioner is behind the bars from the date of his arrest and out of total 6 accused, 5

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accused are already on bail. He also submits that the case of the petitioner is on much better footing than that of co-accused, from whom, the recovery was effected, and who are also on bail. He submits that the petitioner has undergone the incarceration of 2-1/2 years, however, till date prosecution has not been able to conclude the trial and hence his fundamental right of speedy trial has been defeated. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

7. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the petitioner is the husband of co-accused Pammi. It is submitted that recovery of 47.090 kgs. of ganja has been effected from the property owned by the petitioner and co-accused Pammi, which is commercial in nature and thus, provisions of Section 37 of the NDPS Act, straight way are attracted. He has produced the custody certificate of the petitioner on record. The petitioner is involved in one more case. On instruction from Mahender, SHO, informs that out of total 33 witnesses, only four witnesses have been examined so far.

8. After hearing counsel for the parties and perusing the record, it is deciphered that the FIR is registered on the basis of secret information and the petitioner has been arrayed as accused in the present case on the basis of disclosure statement of co-accused, i.e. his wife Pammi and he is behind the bars since 24.09.2022 and out of total six accused, 5 are already on bail. Though the petitioner is involved in one more case, however, he is on bail in the same. This Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. Learned State counsel has produced the custody certificate which shows that petitioner has completed incarceration of 02 years 05 months and 13 days as on 06.03.2025.



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9. 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 petitioners is covered by the ratio of law laid down by the Hon'ble Supreme Court. In this 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.

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.

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

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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.”

10. The veracity of the allegations would be assessed only after 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 petitioner succeeds in making out a case for grant of regular bail. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

07.03.2025
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No

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