



CRM-M-55191-2024

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

CRM-M-55191-2024

Date of decision : 17.07.2025

Shamsher Singh @ Sheru

....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Tanveer Singh, Advocate for the petitioner.

Ms. Simran Gorla, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed for grant of regular bail in case FIR No.81 dated 16.05.2022, under Sections 22/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Garinda, District Amritsar Rural.

2. Succinctly the facts of the case are that the Police party while on patrolling on 16.05.2022 saw a young person coming on foot. On seeing the police, he got perplexed and turned back. He took out an envelope from his pocket threw it on the ground. On suspicion, he was stopped by the police party and on asking he disclosed his name as Shamsher Singh @ Sheru S/o Charan Singh (present petitioner). He was suspected to be carrying some contraband in the envelope thrown by him. On giving the offer, same was searched and it was found containing 200 narcotic pills. He failed to produce any license regarding possession of the same and hence, the FIR was registered and the petitioner was arrested on spot. The investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Learned Judge, Special Court, Amritsar



praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Amritsar vide order dated 08.09.2023. Aggrieved by the same, the petitioner approached this Court earlier by way of filing of CRM-M-51163-2023, however, the same was dismissed as withdrawn vide order dated 21.05.2024. Hence, the petitioner is before this Court by way of filing of present second petition for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that the compliance of Section 50 of NDPS Act, is mandatory, however, there is violation of the same as well. He submits that the petitioner has no criminal antecedents and recovery of 200 narcotic pills has been planted upon the petitioner. He submits that the petitioner is behind bars from last 2 ½ years but till date the prosecution has not been able to conclude the trial and thus, the right of speedy trial of the petitioner has been defeated. He submits that in 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 the counsel for the petitioner and submits that the recovery effected from the petitioner is of 200 narcotic pills which as per the FSL report, weighed, 32.06 grams of Etizolam, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act, are attracted in the present case. She submits on instructions that out of 12 prosecution witnesses, only 04 witnesses have been examined so far. She has produced the custody certificate of the petitioner on record.



5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested in the present case on 16.05.2022. As per custody certificate, the petitioner has suffered an incarceration of 02 years, 05 months and 08 days as on 16.07.2025. It further shows that the petitioner has no criminal antecedents. As submitted, out of 12 prosecution witnesses, only 04 witnesses have been examined so far.

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:-

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 conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.

8. 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.”

9. This Court would refrain itself from commenting anything on the merits of the case. 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 to the petitioner. 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.

17.07.2025
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(RAJESH BHARDWAJ)
JUDGE

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