

2025:PHHC:051086



243 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56065-2024
Date of Decision: 22.04.2025

Jasvir Singh (@ Jura) ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. P.S. Sekhon, Advocate and
Mr. Kaushal Chahal, Advocate
for the petitioner(s).

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.273 dated 08.12.2023 under Sections 21/22/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Sunam, District Sangrur.

2. Succinctly, facts of the case are that on 08.12.2023, the police party while patrolling spotted one cropped hair person coming on the pavement of canal minor from truck union side. He was holding a polythene of black colour in his right hand and on seeing the police, he got perplexed and threw away the polythene carried by him. On suspicion, the police stopped him and on asking, he disclosed his name as Jasvir Singh @ Jura. It was suspected that there is some contraband in the polythene bag thrown by him. On checking of the same, total 1000 intoxicating tablets make Tramadol Hydrochlroide were recovered from the polythene bag. 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 contraband was sent to the FSL lab and

the challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Sangrur 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 24.10.2024. 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 falsely implicated in the present case. He submits that there is violation of mandatory provisions of the NDPS Act. He further submits that the alleged recovery has been effected from a public place, but no independent witness was joined. He submits that personal search of the petitioner was also carried out and thus, there is violation of Section 50 of the NDPS Act as well. He submits that recovery as alleged to have been effected is totally a planted recovery. It is submitted that the petitioner has completed incarceration of more than one year, but there is no substantial progress in the trial. He further submits that the petitioner has been falsely implicated in other cases also, however, he is on bail on those cases. Further, he has produced a copy of order dated 13.02.2025 passed by a co-ordinate Bench of this Court in case CRM-M-42555-2024 and submits that co-accused namely Yograj Singh @ Jograj Singh @ Joga has already been granted concession of regular bail. 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 on due compliance of Sections 42 and 50 of the NDPS Act, recovery of total 1000 intoxicating tablets make Tramadol Hydrochlroide was effected from the petitioner which falls under the commercial quantity and thereafter on the basis of his disclosure statement he got

recovered 3 grams heroine, and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that out of total 17 prosecution witnesses, only two witness has 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 in the present case the petitioner has been arrested at the spot. Recovery allegedly effected from the petitioner is commercial one. Out of total 17 prosecution witnesses, only 02 witnesses have been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 01 year 04 months & 09 days as on 20.04.2025. It further reflects that the petitioner is also involved in other 03 more cases, however, he is on bail in those cases.

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.

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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.

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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 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.

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.

22.04.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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