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

CRM-M-58164-2024

Date of decision : 07.04.2025

Jaspreet Singh @ Jassi**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab assisted by

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.0086 dated 04.07.2022, under Sections 22 Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 NDPS Act added later on), registered at Police Station Kot Ise Khan.

2. Succinctly the facts of the case are that the police on 04.07.2022, received a secret information to the effect that Lakhvir Singh @ Lakha is involved in selling of heroin, narcotic pills and he is still in possession of drug. It was informed that he was sitting near Grain Market and waiting for the customers and in case of raid, he could be apprehended along with the contraband. On finding the information reliable, the information was sent and raiding team was constituted. On conducting the raid at the disclosed place, the person found, disclosed his name as Lakhvir Singh @ Lakha. From his search 310 intoxicant tablets



were recovered from him and he failed to produce any licence for possession of the same and thus, FIR was registered and he was arrested on the spot. On the registration of FIR, investigation commenced. The samples taken were sent to the FSL. On receiving the FSL report, challan was presented. The contraband recovered was found to be weighing 41.85 grams of Etizolam. During investigation, the name of the petitioner surfaced on the disclosure statement of co-accused and he was arrested on 31.08.2024. The petitioner approached the Ld. Judge, Special Court, Moga for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court, Moga vide order dated 25.10.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that neither the petitioner is named in the FIR nor any recovery has been made from him. He submits that the petitioner is implicated in the present case on the basis of disclosure statement of the co-accused, which is not an admissible evidence. He submits that the petitioner was arrested after 2 years of the registration of FIR i.e. on 31.08.2024. He submits that out of 04 accused persons, 03 accused are already on bail. He submits that the petitioner has no criminal antecedents as he has never been involved in any other criminal case. It is submitted that the investigation is already complete and charges are framed and the trial Court has already commenced with the examination of witnesses. He, thus, submits that in the facts and circumstances of the present case, he deserves to be granted regular bail.



4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the name of the petitioner was arrayed as an accused on the basis of disclosure statement made by co-accused recorded on 06.07.2022 but the petitioner could not be arrested, hence, he was finally arrested on 31.08.2024. It is submitted that complicity of the petitioner is duly established during investigation with the co-accused. He submits that recovery effected in the present case is 41.85 grams, which is a commercial quantity, and thus provisions of Section 37 of NDPS Act, are attracted. He has produced the custody certificate of the petitioner. He, on instructions, has submitted that out of total 13 prosecution witnesses only 03 witnesses have been examined so far. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the secret information in the present case was received regarding co-accused, namely, Lakhvir Singh @ Lakha and not the petitioner, from whom the intoxicant tablets weighing 41.85 grams Etizolam was recovered. The petitioner has been arrayed as an accused in the present case on the basis of disclosure statement of the co-accused. Though the disclosure statement was recorded on 06.07.2022, however, the petitioner was arrested on 31.08.2024. There is nothing on record to show that the petitioner was declared proclaimed offender. Custody certificate of the petitioner would show that the petitioner has suffered an incarceration of 07 months and 05 days. Custody certificate further reflects that the petitioner is not involved in any other case.

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 the 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 Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.04.2025
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(RAJESH BHARDWAJ)
JUDGE

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