



235

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

**CRM-M No.58307 of 2024
Date of decision : 29.04.2025**

Jora Singh**.....Petitioner**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Ms. Kamlesh, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present fourth petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.77, dated 23.07.2022, under Sections 22, 29, 61 & 85 of Narcotic Drugs & Psychotropic Substances Act (for short 'NDPS Act'), 1985, registered at Police Station Sandaur, District Malerkotla (Annexure P-1) during the pendency of trial.
2. Succinctly the facts of the case are that on 23.07.2022, the police party while on patrolling, received a secret information to the effect that Deepak Kumar @ Deepu, Varinder Singh and Jora Singh (petitioner) were indulged in bringing the intoxicant bottles and tablets in large quantity from outside in silver colour Alto car bearing registration No.DL-



9-CN-4095 and they supplied the same in the nearby villages. It was informed that in case of barricading, they could be arrested along with the contraband. On finding the information reliable, the barricading was laid and the raiding team reached the place disclosed. Thereafter the car as disclosed was seen coming in which 03 persons were sitting. The same was stopped and inmates of the car, on asking, disclosed their names as Deepak Kumar @ Deepu, Varinder Singh and Jora Singh. The driver of the car was Jora Singh, i.e. the petitioner. The person sitting on the side seat was Deepak Kumar, who was holding a plastic bag and the person sitting on the rear seat was Varinder Singh. They were suspected to be carrying some contraband and thus, the search was carried out. On carrying the search of plastic bag being carried by Deepak, recovery of 11 vials of Omerex 100 ML, 21 vials make Maverex 100 ML, 50 strips of intoxicant tablets make Wallace Carisoma were effected. All the three persons failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and they were arrested on the spot. The samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of the charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Sangrur praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Sangrur declined the petition filed by the petitioner vide order dated 14.11.2022. Thereafter the petitioner earlier approached this Court three times praying for the grant of bail by way of filing CRM-M-61024-2022; CRM-M-45423-2023 and CRM-M-60631-2023, however



the same were allowed to be dismissed as withdrawn vide orders dated 22.03.2023, 06.11.2023 and 11.03.2024, respectively. Hence being aggrieved, the petitioner is before this Court by way of filing the present fourth petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. She has submitted that FIR in the present case has been registered on the basis of secret information, however there is a violation of mandatory provisions of Section 42 of NDPS Act. She has submitted that the recovery has been effected after the sunset. She has submitted that as per the case of the prosecution, there were three accused in the car, however accused, namely, Varinder Singh has been enlarged on bail by this Court vide order dated 09.11.2023 passed in CRM-M-54825-2023. She has submitted that the petitioner is behind bars from the date of his arrest, i.e. 23.07.2022. She has submitted that the petitioner had faced prosecution in 02 more cases, out of them, in one he has been convicted and sentenced for 10 years. She has submitted that custody of the petitioner is being counted in that case, however even otherwise in the present case, the petitioner is behind bars from last about 03 years. She has submitted that prosecution has not been able to conclude the trial despite such a long custody. Hence she submits that in the facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned counsel for the State has opposed the submissions made by counsel for the petitioner. He, on instructions from ASI Gurjant Singh, has submitted that the petitioner is a habitual offender.



He has submitted that name of the petitioner was specifically mentioned in the secret information and thus, on due compliance of mandatory provisions of Section 50 of NDPS Act, recovery of 3.2 kg of Codeine was effected, which is a heavy commercial quantity. He has submitted that thus the provisions of Section 37 of NDPS Act are attracted in this case. He has submitted that in all there are 17 prosecution witnesses, out of which 08 have been given up, however out of the remaining 09 witnesses, no witness has been examined till date. He has produced the custody certificate of the petitioner today in the Court.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since the date of his arrest, i.e. 23.07.2022. The recovered contraband as per the FSL report is said to be 3.2 kg of Codeine. One of the co-accused, namely, Varinder Singh, who was in the car itself, has already been enlarged on bail by this Court vide order dated 09.11.2023. Custody certificate of the petitioner would show that the petitioner in the present case has completed incarceration of 01 year, 05 months and 29 days as on 28.04.2025. However he was convicted in another FIR bearing No.62, dated 15.07.2018, under Sections 22/29/61/85 of NDPS Act by the learned trial Court, Patiala on 25.01.2024 and thus his custody is being counted in that case in which he has completed the sentence of 01 year, 09 months and 16 days. There is no denial to the effect that the petitioner is behind bars in the present case from the date of his arrest. Co-accused of the petitioner, Varinder Singh has already been enlarged on bail. Out of 17 prosecution



witnesses, though 08 have been given up. However out of 09 remaining witnesses, none has been examined so far. Needless to say that every accused has a fundamental right of speedy trial.

7. After perusal of the order passed by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain vs. State (NCT of Delhi), 2023 Live Law (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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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.*

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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.'

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. 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.

10. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of 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. However, if the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in this case.

29.04.2025		(RAJESH BHARDWAJ)
<i>rittu</i>		JUDGE
	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No