



CRM-M-57909-2025

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

CRM-M-57909-2025

Date of decision : 10.11.2025

Shivam

....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Manjot Kaur, Advocate for the petitioner.

Mr. Raj Karan Singh, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.148 dated 21.09.2024, under Sections 21 and 29 of Narcotic and Drugs and Psychotropic Substances Act, 1985, registered at Police Station STF, SAS Nagar, District Mohali.

2. Succinctly, the facts of the present case are that the police party, while on patrolling on 20.09.2024, saw two clean shaved persons on a motorcycle. A polythene bag was hanging on the right handle of the motorcycle. On seeing the police, they got perplexed and tried to turn the motorcycle towards Ambala City. On suspicion, they were apprehended and on asking, they disclosed their names to be Shivam (present petitioner) and Karan. They were suspected to be carrying some contraband in the polythene being carried by them and thus, search of the same was conducted. On conducting the search, 498 grams of heroin was recovered from the same. They failed to produce any licence regarding the conscious possession of the same and thus, FIR was registered and they were arrested on the spot. On registration of the FIR, the investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Learned Judge, Special Court, Patiala praying for grant of



bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Patiala vide order dated 27.03.2025. Aggrieved by the same, the petitioner is before this Court by way of filing of present petition for grant of bail.

3. Learned counsel for the petitioner has vehemently 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, was mandatory in conducting the search, however, there is a violation of the same as well. He submits that the co-accused have been granted bail though they were arrayed as an accused on the basis of disclosure statement of the co-accused. He submits that the petitioner is behind bars since the date of his arrest 21.09.2024, who is suffering from chronic kidney disease. He submits that the petitioner is on dialysis in the Hospital and there is every chance of him getting infection in the Jail. He submits that though petitioner is involved in 02 other cases, however, he is on bail in those cases. He thus, submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Status report by way of affidavit of Mr. Sanjeev Goyal, PPS, Deputy Superintendent of Police, Anti-Narcotics Task Force, Patiala Range, Patiala along with short reply and custody certificate of the petitioner, have been filed on behalf of respondent-State, in the Court today, same are taken on record.

5. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the petitioner was arrested on spot along with the contraband. He submits that



the alleged recovery effected is 498 grams of heroin which is a commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted in the present case. He, on instructions, has submitted that the challan is presented and charges have been framed, however, out of total 22 prosecution witnesses, none has been examined till date

6. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery effected from the petitioner is 498 grams of heroin which is a commercial quantity. The medical condition of the petitioner, as contended by learned counsel for the petitioner, is evident from the status report filed by the learned State counsel that he is being provided the treatment for the dialysis in the jail. As submitted, challan has been presented and charges have been framed, however, out of total 22 prosecution witnesses, none has been examined till date. The medical condition of the petitioner has been verified from the status report. As per custody certificate of the petitioner, he has suffered an incarceration of 01 year, 01 month and 15 days as on 08.11.2025. It further shows that petitioner is involved in 03 other cases, however, in one case, he is on bail. Primarily keeping in view the medical condition of the petitioner, he deserves to be granted bail.

7. 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.*

8. 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.

9. 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 to the petitioner on the basis of his medical condition. 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.

10. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

10.11.2025

ps-I

Whether speaking/reasoned

Whether reportable

(RAJESH BHARDWAJ)

JUDGE

: Yes/No

: Yes/No