



218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64054-2024

Date of decision : 08.01.2025

Sandeep Singh @ Seepa

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Shivender Pal, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.58 dated 15.03.2023, under Section 22 of the NDPS Act, 1985, registered at Police Station City South, District Moga.

2. Succinctly, facts of the case are that the police party while on patrolling on 15.03.2023 saw a clean shaven boy on the left side of the cremation ground. On seeing the police, he got perplexed and from the right pocket of his pant, he took out and threw one plastic bag on the ground. On suspicion, he was apprehended. On asking, he disclosed his name as Sandeep Singh @ Seepa (petitioner). The plastic bag thrown by him was searched and 90 tablets of Etizolam were recovered from the same. Petitioner failed to produce any license regarding the same so, he was arrested on the spot and FIR was registered. The samples of the contraband taken were sent to the FSL. On completion of the investigation, challan was presented and charges were framed. Petitioner approached the learned Judge, Special Court, Moga praying for the grant of bail. However, after hearing counsel for both the sides, learned Judge, Special Court,



Moga declined the same vide his order dated 30.11.2023. Thereafter, petitioner earlier approached this Court by way of filing CRM-M-5382-2024, however, the same was dismissed as withdrawn vide order dated 02.09.2024. Hence, this is the second petition praying for grant of regular bail.

3. Learned counsel for the petitioner has submitted that petitioner is behind bars since 15.03.2023. It is submitted that the alleged recovery has been effected from the public place however, no independent witness has been joined in the present case. He submits that there is a violation of Section 50 of the NDPS Act as well. It is submitted that petitioner has no criminal antecedents and in the facts and circumstances of the case, petitioner deserves to be granted bail.

4. Learned State counsel however, has opposed the submissions made by counsel for the petitioner. He, on instructions from ASI Chamkaur Singh, submits that the quantity was recovered from the petitioner after due compliance of the statutory provisions of the NDPS Act and the same is a commercial quantity as the same weighed 18.9 grams of Etizolam. He submits that the presence of the contraband was established by the FSL report. It is submitted that on completion of the investigation, challan was presented and charges were framed and as on date, out of 10 prosecution witnesses, 06 witnesses already stand examined. He submits that as per the custody certificate, petitioner is not involved in any other case of the similar nature.

5. After hearing counsel for the parties and perusing the record, it is deciphered that petitioner was arrested on 15.03.2023. On completion of the investigation, challan was presented. As per the information, out of 10 prosecution witnesses, 06 witnesses already stand examined. Petitioner is



not involved in any other case of the similar nature as is evident from the custody certificate produced by learned State counsel.

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 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.

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.

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

08.01.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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