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

CRM-M-60758-2024

Date of decision : 06.03.2025

Ajay Singh

....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Raj Kumar Chandana, Advocate for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.208 dated 16.09.2023, under Sections 22 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Dharamkot, District Moga.

2. Succinctly the facts of the case are that the Police party while on patrolling on 16.09.2023 saw a young person coming from the side of village Jalalabad. On seeing the police, he got perplexed and turned back. He threw a transparent envelope after taking out the same from the right pocket of his lower. On suspicion, he was apprehended and on asking he disclosed his name as Ajay Singh (present petitioner). On search of envelope thrown by him, 45 narcotic pills were recovered. He failed to produce any license regarding possession of the same and hence the FIR was registered and the petitioner was arrested on spot. The investigation commenced and samples taken from the contraband were sent to FSL. On receiving the FSL report, challan presented and on framing of charges, the trial Court proceeded with the trial. The petitioner approached the Learned Judge, Special Court, Moga praying for grant of bail, however, finding no



merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Moga vide order dated 05.04.2024. 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 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, however, there is violation of the same as well. It is submitted that the sample taken from the alleged contraband were also sent in violation of provisions of the NDPS Act. He submits that the petitioner is behind bars since 16.09.2023. Though petitioner is involved in 02 more cases, however, he is on bail in those cases. He submits that in 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 the counsel for the petitioner and submits that the petitioner was arrested on the spot along with the contraband. He submits that as per FSL report, the contraband recovered was found to be Etizolam weighing 6.075 grams which is commercial in nature and thus, provisions of Section 37 of the NDPS Act, are attracted. He has produced the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested in the present case on 16.09.2023. On receiving the FSL report, trial commenced. Though, provisions of Section 37 of the NDPS Act are attracted, however, the petitioner is behind bars since 16.09.2023 and as per the custody



certificate he has completed an incarceration of 01 year, 05 months and 15 days. Though he is involved in 02 more cases, out of them 01 case is under NDPS Act, however, he is on bail in those cases.

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 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 to the petitioner. 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.

(RAJESH BHARDWAJ)
JUDGE

06.03.2025
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No