



CRM-M-59256-2025

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

CRM-M-59256-2025

Date of Decision: 12.12.2025

Mustakim

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ram Singh Chaudhary, Advocate, for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.25 dated 30.01.2025, registered under Sections 22(C), 29, 61, 85 of NDPS Act, 1985, at Police Station Chand Hut, District Palwal.

2. Succinctly, facts of the case are that on 30.01.2025, the police party while on patrolling received a secret information to the effect that Jamshed and Robbin are involved in selling intoxicant injections. It was informed that they are carrying a large quantity of intoxicant injections on their Yamha R-15 red colour motorcycle from Ghaghot to Palwal via Alawalpur. In case of barricading, they could be arrested alongwith the contraband. On receiving the secret information, the barricade was laid at the place disclosed. Two persons were seen coming on a motorcycle as disclosed. They were stopped. On asking, the rider of the motorcycle disclosed his name to be Jamshed, whereas, the pillion rider disclosed his name to be Robbin, who was carrying a carton. They were suspected to be carrying some contraband in the carton and thus, search of the same was conducted. On conducting search, 1000 injections of Pentazocine were recovered. They failed to produce any licence regarding possession of the



same and thus, on registration of the FIR, they were arrested on the spot. The investigation commenced. Samples taken were sent to the FSL. During the investigation, complicity of the petitioner was surfaced on the disclosure statement of the co-accused and he was arrested on 18.02.2025. On receipt of the FSL report, the challan was presented and on framing of charges, the investigation commenced. The petitioner approached the Court of learned Additional Sessions Judge, Palwal praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 01.10.2025. Earlier the petitioner approached this Court by way of filing CRM-M-52247-2025, however, the same disposed vide order dated 25.09.2025. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present second petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner was named in the FIR, nor any recovery has been effected from him. However, he has been arrayed in the present case on the basis of disclosure statement of co-accused, which in itself is not an admissible evidence. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case. It is submitted that one of the co-accused, who was arrayed on the basis of disclosure statement, has been granted anticipatory bail by this Court vide order dated 25.09.2025 passed in CRM-M-37345-2025. He further submits that in the facts and circumstances, false implication of the petitioner is evident and thus, he deserves to be granted regular bail.



4. *Per contra*, learned State counsel has vehemently controverted the submissions made by counsel for the petitioner. He has submitted that the recovered contraband from the co-accused is 1000 injections of Pentazocine, which falls under the commercial quantity and thus, provisions of Section 37 of the NDPS Act, are attracted in the present case. He submits that complicity of the petitioner surfaced during the investigation as he alongwith co-accused was involved in selling intoxicant injections. On instructions, he has submitted that out of total 21 prosecution witnesses, 03 witnesses have been examined till date. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrayed as accused on the disclosure statement of the co-accused and was arrested on 18.02.2025. One of the co-accused, who was arrayed on the disclosure statement of the co-accused, has already been granted anticipatory bail by this Court. Only 03 witnesses have been examined out of total 21 prosecution witnesses. The custody certificate would show that the petitioner has suffered incarceration of 09 months & 22 days as on 11.12.2025. It further shows that the petitioner has no criminal antecedents.

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 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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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.

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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the

sides and perusing the record, 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.

8. 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.

9. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

12.12.2025

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned :

Whether Reportable :

Yes/No

Yes/No