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

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Date of decision: 10.12.2025

RAJESH KUMAR**...PETITIONER****VERSUS****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Shubham Aggarwal, Advocate and
Mr. Suksham Aggarwal, Advocate for the petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached by way of filing the present petition praying for grant of regular bail in case FIR No.560 dated 20.12.2024 under Section 22, 61, 85 of NDPS Act registered at Police Station Zirakpur, SAS Nagar.

2. Succinctly the facts of the case are that on 20.12.2024, while the police party was on patrolling, they saw a young man coming from the Ambala Road side. On seeing the police party, he got perplexed and tried to turn back. On suspicion, he was apprehended by the police. On asking, he disclosed his name to be Rajesh Kumar. He was suspected to be carrying some contraband and the same was searched. On conducting the search, 712 capsules of Proximo Spas and 540 tablets of Alprade were recovered from him. He failed to produce any license regarding the possession of the same and he was arrested at the spot. FIR got registered and investigation commenced. The samples taken were sent to the FSL. As per the FSL report, 712 capsules contains 421 grams of Dicyclomine Hydrochloride and Tramadol whereas rest 540 tablets containing Alprazolam

found to be weighing 70.74 grams. On completion of the investigation, the



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challan was presented. On framing of charges, trial commenced. He approached the learned Additional Sessions Judge, SAS Nagar for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, SAS Nagar declined the bail application vide order dated 15.11.2025. Aggrieved by the same, petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He further submits that the alleged recovery has been effected from a public place, however, no independent witness has been joined and there is a violation of the provisions of Section 50 of NDPS Act. He further submits that the false implication of the petitioner is writ-large. He further submits that the petitioner has no criminal antecedents as he has never been involved in any other criminal case. He, thus, submits that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He fairly submits that the recovery effected from the petitioner of capsules containing Dicyclomine Hydrochloride and Tramadol, weighing 421 grams is a commercial quantity, thus, the provisions of Section 37 of NDPS Act are attracted. He further submits that the recovered capsules containing Alprazolam weighs 70.74 grams, however, the same is less than 100 grams, thus, it would be a non-commercial quantity. On instructions, out of total 13 prosecution witnesses, only 02 has been examined. He has produced custody certificate of the petitioner today in the Court and the same is taken on record and he is not involved in any other case.



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6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the recovery has been effected from a public place. Custody certificate produced would show that the petitioner has completed incarceration of 11 months and 18 days as on 09.12.2025 and he is not involved in any other case. of total 13 prosecution witnesses, only 02 has been examined so far.

7. 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



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‘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 the 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.

9. 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. 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.

10.12.2025
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(RAJESH BHARDWAJ)
JUDGE

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