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

CRM-M-5759-2026**Date of Decision: 09.04.2026**

Harsh @ Arora

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**Present:** Mr. V.K. Kaushal, Advocate
for the petitioner.

Mr. K.D. Sachdeva, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.99, dated 26.06.2024, under Sections 21-C/25/29 of NDPS Act, registered at Police Station Special Task Force, District SAS Nagar, Mohali.

2. Succinctly, the facts of the case are that the police party was sitting in Office of Special Task Force Border Range, Amritsar on 26.06.2024, received a secret information to the effect that Rahul Kumar and Harsh Arora were involved in smuggling of heroin on a very large scale. It was informed that they were going on their Mahindra Centuro motorcycle bearing No.PB02-CF-3329 to supply the contraband towards Jora Fatak near Ram Talai turn and in case of barricading, they could be apprehended along with the contraband. On receiving the secret information, the barricading was laid at the place as disclosed in the secret information. In the meantime, the motorcycle, as disclosed in the secret information was seen coming and on suspicion, the same was signalled to stop. On asking, driver of the motorcycle disclosed his



name to be Rahul Kumar and the person riding pillion, disclosed his name to be Harsh @ Arora (petitioner herein). They were suspected to be carrying some contraband and thus, their search was conducted. On conducting the search of petitioner-Harsh @ Arora, a black heavy packet, wrapped in yellow cloth was recovered from his T-shirt and on conducting the search of the packet, 500 grams of heroin was recovered. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of the FSL report, the challan was presented. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Amritsar declined the bail application filed by the petitioner vide order dated 09.12.2024. Being aggrieved, the petitioner is again before this Court praying for the grant of regular bail by way of filing the present petition.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail on the basis of parity with that of the co-accused. He has drawn the attention of this Court to the order dated 11.03.2026 passed by this Court in **CRM-M-73880-2025**, whereby co-accused of the petitioner, namely, Rahul Kumar, has been granted the concession of bail. He has submitted that case of the petitioner is at par with that of the co-accused, who has been granted bail by this Court. He submits that on the basis of the parity, petitioner deserves to be granted bail as case of the petitioner is similar to that of the co-accused, who has already been granted bail.

4. Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner



and the co-accused were specifically named in the secret information and both were arrested on the spot along with the contraband. He has submitted that the contraband recovered in the present case, falls under the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He, on instructions, has submitted that out of total 14 prosecution witnesses, 05 witnesses have been examined till date. However, he endorsed the fact that case of the petitioner is at par with co-accused, namely, Rahul Kumar, who has already been granted bail by this Court. He has produced custody certificate of petitioner, today in the Court, which is taken on record.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that admittedly the case is based on the secret information. The alleged recovery effected in the present case in a public place. It has been contended before this Court by learned counsel for the petitioner that no independent witness was joined during the recovery period. The petitioner was arrested on the spot and since then, he is behind bars. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 09 months and 10 days as on 08.04.2026. It further reflects that the petitioner has no criminal antecedents. Out of total 14 prosecution witnesses, 05 witnesses have been examined so far. Admittedly, co-accused of the petitioner, namely, **Rahul Kumar**, has already been granted bail by this Court vide order dated 11.03.2026.

6. 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.

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

9. Accordingly, the present petition is allowed and 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.

09.04.2026
ps-I

(RAJESH BHARDWAJ)
JUDGE

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