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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.10517 of 2026

IrshadPetitioner

versus

State of Haryana Respondent

CRM-M No.16536 of 2026

Rashid @ Mohd. Rashid Petitioner

versus

State of Haryana Respondent

Date of decision: 20.05.2026

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Aman Arora, Advocate and
Mr. Mukesh Yadav, Advocate
for the petitioner in CRM-M-10517-2026.

Mr. Parminder Singh Sekhon, Senior Advocate with
Ms. Shefali, Advocate
for the petitioner in CRM-M-16536-2026.

Mr. Tanuj Sharma, A.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. By this order, I dispose of the above mentioned two petitions arising out of the same FIR.
2. Both the petitions have been filed praying for the grant of regular bail to the petitioners in case bearing FIR No.483, dated 04.12.2024, under Sections 21 & 29 of NDPS Act, 1985, registered at Police Station Madhuban, District Karnal.

3. Succinctly, the facts of the case are that the police party, while on



patrolling on 04.12.2024, received a secret information to the effect that Rashid (petitioner in CRM-M-16536-2026) and Irshad (petitioner in CRM-M-10517-2026) are involved in the smuggling of heroin. It was informed that they were standing before Bastara Toll Tax alongwith the contraband and were waiting for their customers and in case of raid, they could be apprehended along with contraband. On receiving the secret information, the raiding party was constituted and reached the place as disclosed in the secret information. Two persons, as resembled in the secret information, were found standing there and both were apprehended by the police party. On asking, they disclosed their names to be Rashid and Irshad. Rashid was holding a bag and the police suspected him to be carrying some contraband in the same, thus, same was searched. On conducting the search, 271 grams and 31 mgs heroin was recovered from the same. 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. Samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioners approached the Court of learned Additional Sessions Judge-Cum-Exclusive Court for Fast Track of Offences under NDPS Act, Karnal praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge-Cum-Exclusive Court for Fast Track of Offences under NDPS Act, Karnal dismissed both the bail applications filed by the petitioners vide orders dated 09.07.2025 and 21.02.2026, respectively. Being aggrieved, the petitioner, namely, Irshad, earlier approached this Court praying for the grant of regular bail by way of filing CRM-M-38452-2025,



however the same was dismissed as not pressed vide order dated 27.08.2025. Hence being aggrieved, the petitioners are before this Court by way of filing the present petitions praying for the grant of regular bail.

4. Learned Senior counsel as well as learned counsel for the petitioners have submitted that the petitioners have been falsely and frivolously implicated in the present case. They have submitted that admittedly the case of the prosecution is based on the secret information, however, there is a violation of mandatory provisions of Section 42 of NDPS Act. They have submitted that there is a blatant violation of mandatory provisions of Section 50 of NDPS Act as well. They have submitted that no independent witness has been joined in the present case. To buttress their arguments, they have submitted that the petitioners have no criminal antecedents as they have never been involved in any other case. They have submitted that the petitioners are behind bars from last about 1½ years, however, there is no material progress in the trial as only 02 witnesses have been examined out of total 21 prosecution witnesses and thus, their right of speedy trial has been miserably defeated. They have further submitted that the co-accused, namely, Mosin and Abid @ Yabid have already been granted the concession of regular bail by this Court vide order dated 16.02.2026 passed in CRM-M-51615-2025 and CRM-M-64334-2025. They have submitted that in the facts and circumstances, the petitioners deserve to be granted regular bail.

5. Status report dated 16.05.2026 in CRM-M-16536-2026 by way of an affidavit of Manoj Kumar, HPS, Deputy Superintendent of Police, Gharaunda Karnal on behalf of the respondent-State has been filed by learned State counsel today in the Court, which is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.



6. *Per contra*, learned counsel for the State, however, has opposed the submissions made by learned counsels for the petitioners. He has submitted that both the petitioners were specifically named in the secret information and arrested on the spot and the recovery of 271.31 grams of heroin has been allegedly effected from them, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He, on instructions, has submitted that out of total 21 prosecution witnesses, only 02 witnesses have been examined so far. He has produced custody certificates of both the petitioners today in the Court, which are taken on record.

7. Heard.

8. After hearing learned counsel for the parties and perusing the record, it is deciphered that case of the prosecution is based on the secret information. The alleged recovery of 271.31 grams of heroin has been effected from the public place and no independent witness was joined. As contended before this Court that there is a violation of mandatory provisions of Section 50 of NDPS Act as well. The petitioners are behind bars since the date of their arrest, i.e. 04.12.2024. Admittedly, co-accused, namely, Mosin and Abid @ Yabid are on bail. Custody certificates produced would show that the petitioners have suffered an incarceration of 01 year, 05 months and 13 days as on 19.05.2026. It further reflects that the petitioners are not involved in any other case. Out of total 21 prosecution witnesses, only 02 witnesses have been examined so far.

9. 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. xxxxxx

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. xxxxxx

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.’

10. 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.



11. This Court would refrain itself from commenting anything on the merits of the case. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsels for the petitioners succeed in making out a case for the grant of regular bail.
12. Accordingly, the present petitions are allowed. Petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.
13. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

20.05.2026
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(RAJESH BHARDWAJ)
JUDGE

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