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

CRM-M-16377-2026

Date of Decision: 06.04.2026

Dheeraj Kumar @ Kappa

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Chirag Suri, Legal Aid Counsel, for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.191 dated 31.308.2024, registered under Sections 22(C), 61 and 85 of NDPS Act, 1985 (Sections 331(4), 305 and 238 of BNS, 2023 added lateron), at Police Station City Kotkapura, Faridkot.
2. Succinctly, facts of the case are that on 31.08.2024 the police party while on patrolling when reached the round-about made at Dana Mandi Moga Road Kotkapura, they saw two young men coming, who were holding transparent envelopes in their right hands. On seeing the police, they started turning back. However, on suspicion, they were apprehended by the Police and on asking, first young man disclosed his name to be Dheeraj Kumar @ Kapa (the petitioner) and the second person disclosed his name to be Pratap Kumar @ Ashoki. They were suspected to be carrying some contraband in the envelopes being carried by them. Thus, search of the envelopes was conducted and on conducting search, 4700 tablets make Nrx Buprenorphine 2mg and Naloxone 0.5 mg Sublingual Tablets IP Buprisan-N were recovered from Dheeraj Kumar @ Kapa and 6000 tablets make Nrx



Buprenorphine 0.4 mg and Naloxone 0.1 mg Sublingual Tablets IP were recovered from Pratap Kumar @ Ashoki. They failed to produce any licence regarding the 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. The petitioner approached the Court of learned Judge, Special Court, Faridkot 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 18.03.2025. Earlier the petitioner approached this Court by way of filing CRM-M-36880-2025 and CRM-M-41849-2025, however, the same were dismissed vide orders dated 21.07.2025 and 08.08.2025, respectively. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present third 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 admittedly the alleged recovery is from a public place, however, no independent witness has been joined. It is submitted that the alleged recovery has been effected from the envelope, and thus, conscious possession of the contraband in itself is not proved against the petitioner. He submits that there is blatant violation of mandatory provisions of Section 50 of the NDPS Act. To buttress his arguments, he submits that the petitioner has never been involved in other case of similar nature. He submits that the petitioner is behind the bars from the last 1½ years, however, till date there is no material progress in the trial. He, thus,



has submitted that in the overall facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has vehemently controverted the submissions made by counsel for the petitioner. It is submitted that it is a case of chance recovery. It is submitted that the recovery effected from the petitioner is 4700 tablets containing 474.7 grams of Buprenorphine Hydrochloride and Naloxone Hydrochloride and from the co-accused 6000 tablets of Buprenorphine Hydrochloride have been recovered, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he has submitted that out of total 22 prosecution witnesses, 15 witnesses still remain to be examined. 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 alleged recovery was effected from a public place. Violation of mandatory provisions of Section 50 of the NDPS Act has been contended before this Court. The custody certificate would show that the petitioner has suffered incarceration of 01 year, 07 months & 02 days as on 04.04.2026. As per the custody certificate, the petitioner is involved in two other cases, however, none of the case is under the NDPS Act, however, he is on bail in one case. Out of total 22 prosecution witness, 15 prosecution witnesses still remain to be examined.

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.

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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



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the parties before the trial Court. 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 her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

9. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

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

(RAJESH BHARDWAJ)
JUDGE

06.04.2026

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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No