



CRM-M-18392-2025

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

110**CRM-M-18392-2025**

Date of Decision: 23.03.2026

Surinder Kumar

..... Petitioner

Versus

State of Punjab

.....Respondent

122**CRM-M-61804-2025**

Date of Decision: 23.03.2026

Mohd. Tahir

..... Petitioner

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Yashpal Thakur, Advocate, for
the petitioner in CRM-M-18392-2025.
Mr. Pradeep Virk, Sr. Advocate with
Mr. Kamal Jindal, Advocate and
Mr. Ajay Sharma, Advocate, for the petitioner
in CRM-M-61804-2025.

Ms. Ramta Chowdhary, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. By this order, the two above-mentioned petitions are disposed of, both having arisen out of the same FIR.

2. Prayer in the present petitions is for grant of regular bail to the petitioners in a case FIR No.58 dated 24.04.2023, registered under Sections 22 and 29 of NDPS Act, 1985 and Sections 419 and 120-B IPC, at Police Station City-I, Malerkotla, District Malerkotla.

3. Succinctly, facts of the case are that on 24.04.2023 the police party while on patrolling, when reached near Chauni Wali Masjid behind at the distance of about 15-20 karam on Kucha road, they saw a Chhota Tempo



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(Ashoka Layland) parked on Kucha road, in which three persons were setting the carton boxes by putting on each other. On seeing the police, they got terrified. However, on the basis of suspicion, they were apprehended by the Police and on asking, the first person standing driver side of the tempo, disclosed his name to be Mohd Tahir (petitioner in CRM-M-61804-2025), second person disclosed his name to be Umardin and the person standing conductor side disclosed his name to be Mohd. Sahibaz. They were suspected to be carrying some contraband in the carton boxes lying in the Tempo. Thus, on giving notice under Section 50 of the NDPS Act, search of the carton boxes was conducted. On conducting search, 270000 intoxicant tablets make Tramadol Hydrochloride 100 mg Tablets Toridol, SR were recovered from the same. 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. During investigation, disclosure statement of Mohd Tahir was recorded and complicity of Surinder Kumar (petitioner in CRM-M-18392-2025) was surfaced and he was also arrayed as an accused in the present case. Resultantly, he was arrested on 27.07.2023. Petitioner Surinder Kumar approached the Court of learned Judge, Special Court, Sangrur praying for grant of regular bail, whereas, petitioner Mohd Tahir approached the Court of learned Judge, Special Court, Malerkotla. However, after hearing both the sides, the learned Courts finding no merit in the same, dismissed the bail applications filed by the petitioners vide order dated 05.09.2023 and 30.08.2025, respectively. Earlier, petitioner Mohd Tahir approached this Court by way of filing CRM-M-2999-2024, however, the same was



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dismissed by this Court, vide order dated 20.09.2024. Hence, petitioner Mohd Tahir has approached this Court again praying for grant of regular bail by way of filing the present second petition, whereas, petitioner Surinder Kumar has approached this Court by way of filing the first petition.

4. It has been vehemently contended by learned Senior counsel for petitioner Mohd Tahir that the petitioner has been falsely and frivolously implicated in the present case. He has drawn the attention of this Court to the photographs appended with the petitioner and has submitted that at the relevant time when the alleged recovery was effected, the petitioner was present at the patrol pump and after illegally arresting him, his presence was shown at the relevant time of the alleged recovery. It is contended that there is blatant violation of Section 50 of the NDPS Act in the alleged recovery. He contends that the conscious possession is not at all proved.

Learned counsel for petitioner Surinder Kumar has also vehemently contended that the petitioner has been falsely implicated in the present case. He submits that neither the petitioner was present at the time of alleged recovery nor any recovery has been effected from him. However, he has been roped in the present case on the basis of the disclosure statement of the co-accused. He submits that even otherwise, the disclosure statement of the co-accused is not even an admissible evidence.

Learned counsel for the petitioners have submitted that the petitioners have no criminal antecedent as they have never been involved in any other case. They submit that the petitioners are behind the bars from the last more than 2½ years, however, there is no material progress in the trial and thus, their right of speedy trial is miserably defeated. They also contend that two of the co-accused were directed to surrender before the trial Court



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and they have been granted bail. They, thus, have have submitted that in the overall facts and circumstances, the petitioners deserve to be granted bail.

5. *Per contra*, learned State counsel has vehemently controverted the submissions made by counsel for the petitioners. It is submitted that petitioner Mohd Tahir alongwith other co-accused was arrested on the spot. Recovery of 270000 intoxicant tablets containing Tramadol was effected from the vehicle in which they were sitting. She submits that complicity of petitioner Surinder Kumar was proved during the investigation. It is submitted that as per the FSL report, the contraband recovered in the present case was found to be 56.97 kgs of Tramadol, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, she has submitted that out of total 45 prosecution witnesses, 05 witnesses have been examined till date. She has placed on record the custody certificates of the petitioners.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery of 56.97 kgs of Tramadol has been shown to be effected from petitioner Mohd Tahir. Presence of Mohd Tahir at the relevant time has been disputed before this Court. As contended before this Court, petitioner Surinder Kumar also arrayed as an accused on the basis of disclosure statement of the co-accused. Two of the co-accused are stated to be on bail. The custody certificates would show that petitioner Surinder Kumar has suffered incarceration of 02 years, 07 months & 19 days as on 22.03.2026, whereas, petitioner Mohd Tahir has suffered incarceration of 02 years, 10 months & 18 days as on 22.03.2026. As per their custody certificates, the petitioners have no criminal antecedents. Out of total 45



prosecution witnesses, 05 prosecution witnesses have been examined.

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.

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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.'

8. Speedy trial is the right of every accused. The Hon'ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

9. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

10. 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 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 petitioners succeed in making out a case for grant of regular bail to the petitioners.

11. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety

bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

23.03.2026

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Whether Speaking/Reasoned :

Whether Reportable

Yes/No

:

Yes/No

(RAJESH BHARDWAJ)

JUDGE