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

CRM-M-19149-2026

Date of Decision: 15.05.2026

Lakhwinder Masih @ Johny

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Kinshuk Nanda, Advocate, for the petitioner.

Mr. Kuljinder Dhindsa, AAG, 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.42, dated 11.07.2024, under Sections 22, 27-A of NDPS Act (Section 29 of NDPS Act added lateron), registered at Police Station Tibber, District Gurdaspur.
2. Succinctly the facts of the case are that during the CASO operation, the police party on 11.07.2024, went to the house of Lakhwinder Masih @ Johny (the petitioner) to search his house regarding some contraband. On conducting the search of house of Lakhwinder Masih @ Johny, they recovered 430 intoxicant tablets along with Rs.500/- as drug money. Thus, the FIR was registered and he was arrested on the spot. Investigation commenced. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Gurdaspur, praying for the grant of bail. However after hearing both the sides and finding no merit in the same, learned trial Court declined the bail application filed by the petitioner vide order dated 26.11.2025. Hence being aggrieved,



the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

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 contends that the alleged recovery was effected from the house of the petitioner, however, neither the case of the prosecution is based on the secret information, nor there is anything on record to show that any other information was with the police regarding complicity of the petitioner. He further submits that no independent witness has been joined at the time of recovery in the present case. He further contends that there is violation of Section 50 of the NDPS Act as well. He submits that co-accused, namely, Sukhdev Singh @ Sonu who was the alleged to be the supplier of the alleged contraband, has already been granted bail by this Court vide order dated 10.09.2025. He further submits that the petitioner is behind the bars from the last about 01 year & 10 months, but there is no material progress in the trial and hence, his right of speedy trial is miserably defeated. He contends that though the petitioner was implicated in two other cases, however, in one case he has been acquitted and in one case, he has been released on 17.12.2025. 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. He submits that during the CASO operation, search of the house of the petitioner was conducted and 430 tablets containing Etizolam were recovered, on weighing which was found to be 49.02 grams, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act, are attracted in this case. On



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instructions, he has submitted that out of total 13 prosecution witnesses, 03 witnesses have been examined. He has filed the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery is effected from the house of the petitioner. Violation of Section 50 of the NDPS Act, has been vehemently contended by learned counsel for the petitioner. Co-accused, who was allegedly the supplier of the contraband, has already been granted bail by this Court. As per custody certificate of the petitioner, he has already suffered incarceration of 01 year, 10 months & 01 day as on 14.05.2026. It further shows that the petitioner is involved in two other cases, however, in one case, he has been acquitted and in one case, he has been released on 17.12.2025.

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 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 his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

15.05.2026

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No