



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

CRM-M-20664-2026

Date of decision : 11.05.2026

Rupesh Kumar

....Petitioner

versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Yashveer Kharb, Advocate
for the petitioner.

Mr. Kuljinder Dhindsa, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed by the petitioner praying for grant of regular bail in case FIR No.141 dated 24.08.2022, under Sections 21(C), 29/31/61 and 85 of the NDPS Act, 1985 (Section 201 of IPC added later on), registered at Police Station Kartarpur, District Jalandhar Rural.

2. Succinctly, facts of the case are that the police while patrolling on 24.08.2022 when reached near Kartarpur bus stand, they saw two young men standing. They were having kit bag with them. On suspicion, both were stopped by the police and on asking, they disclosed their names to be Ajit Kumar and Rupesh Kumar (present petitioner). They were suspected to be carrying some contraband in the kit bag being carried by them. The search of both the individuals and the kit bag carried by them was conducted. On conducting the search of Ajit Kumar, 500 gms of heroin was recovered, whereas from the search of left side of pocket of trouser of Rupesh Kumar, 120 gms of Ice was recovered. They failed to produce any licence regarding possession of the same and thus, on the registration of the FIR, both were arrested. The investigation commenced and the samples were sent to FSL.

On completion of investigation, challan was presented. On framing the



charges, the trial commenced. The petitioner approached the learned Special Court at Jalandhar praying for grant of regular bail. However, after hearing both the sides, the same was declined vide order dated 06.11.2023. Aggrieved, the petitioner earlier approached this Court praying for grant of bail by way of filing CRM-M-2665-2024 and the same was dismissed as withdrawn vide order dated 24.01.2024. Hence, the petitioner has again approached this Court praying for grant of bail by way of filing the present second 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 09.04.2026 passed by this Court in **CRM-M-18054-2026**, whereby co-accused of the petitioner, namely, Ajit Singh @ Ajit Kumar, has been granted the concession of regular bail. He has submitted that case of the petitioner is at par with that of the co-accused, who has been granted regular 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 regular bail.

4. Learned State counsel, on the other hand, has opposed the submissions made by learned counsel for the petitioner. He has submitted that the recovery effected in the present case is of 500 grams of Heroin and 120 grams of ice i.e. methamphetamine, which are commercial quantities and thus, provisions of Section 37 of the NDPS Act are attracted in this case. He, on instructions, has submitted that out of 21 prosecution witnesses, only 02 witnesses have been examined so far. He has placed on record the custody certificate of the petitioner. However, he endorsed the fact that case of the petitioner is at par with co-accused, namely, Ajit Singh @ Ajit Kumar,



has already been granted regular bail by this Court.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery was effected from the public place. Custody certificate filed by the State shows that the petitioner has undergone incarceration of 03 years, 08 months and 09 days as on 10.05.2026. It further reflects that the petitioner has no criminal antecedents. As submitted, out of 21 prosecution witnesses, only 02 witnesses have been examined till date. Admittedly, co-accused of the petitioner, namely, Ajit Singh @ Ajit Kumar, has already been granted regular bail by this Court vide order dated 09.04.2026. There is no gainsaying that every accused has the fundamental right of speedy trial.

6. 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.”

7. 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.



8. 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 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.'

9. 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. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail on the basis of parity. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

11.05.2026

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(RAJESH BHARDWAJ)

JUDGE

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