



215

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

**CRM-M No.20985 of 2026
Date of Decision: 24.04.2026**

Rashpal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vipin Mahajan, Senior Advocate with
Mr. Utkrant Mahajan, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.146, dated 23.05.2023, under Sections 21(c), 27 of NDPS Act, registered at Police Station STF Phase-4, SAS Nagar, Mohali, Punjab.

2. Succinctly, the facts of the case are that the police party was on patrolling on 23.05.2023 and when they reached about 100 meter ahead of village Sekhon via slip road, they saw one person coming on the foot from the side of village sekhu. He was carrying a small bag on his left shoulder. On seeing the police, he got perplexed and tried to turn back. However, on suspicion, he was apprehended with the help of police officials. On asking, he disclosed his name to be Rachpal Singh. He was



suspected to be carrying some contraband in the bag being carried by him on his shoulder and thus, search of the same was conducted. On conducting the search of the bag, 350 grams of heroin was recovered. He failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. The 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 petitioner approached the Court of learned Judge, Special Court, Sri Muktsar Sahib praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Sri Muktsar Sahib declined the bail application filed by the petitioner vide order dated 26.12.2023. Being aggrieved, the petitioner earlier approached this Court praying for the grant of regular bail by way of filing CRM-M-61219-2024, however, the same was dismissed as withdrawn vide order dated 13.10.2025. Hence being aggrieved, the petitioner is again before this Court praying for the grant of regular bail by way of filing the present second petition.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery of 350 grams of heroin has been effected from the public place but no independent witness has been joined. He has submitted that the conscious possession is also not proved and the recovery is in the violation of mandatory provisions of Section 50 of NDPS Act. He has submitted that the petitioner is behind bars since the date of his arrest, i.e.



23.05.2023 and thus, has suffered an incarceration of more than 02 years and 10 months but till date, he is facing the trial. He has submitted that false implication of the petitioner is evident . He has submitted that though the petitioner is involved in other cases, however, he is on bail in all the cases. He has submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the alleged recovery of 350 grams of heroin has been effected from the petitioner on due compliance of provisions of Sections 50 of NDPS Act. He has submitted that the alleged recovery effected from the petitioner falls under the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He has submitted that the petitioner is a habitual offender, who is involved in 10 other cases. He, on instructions, has submitted that out of total 27 prosecution witnesses, 14 witnesses still remain to be examined. He has produced custody certificate of the petitioner today in the Court, which is taken on record.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner in the present case was arrested in the present case on 23.05.2023. The alleged recovery of 350 grams of heroin has been effected from the public place. The violation of mandatory provisions of Section 50 of NDPS Act is there, as submitted before this Court by learned counsel for the petitioner. The quantity above 250 grams of heroin is commercial in nature whereas in the present case, the recovery



effected is 350 grams of heroin. 14 witnesses still remain to be examined out of total 27 prosecution witnesses. Custody certificate produced would show that the petitioner has suffered an incarceration of 02 years, 10 months and 28 days as on 22.04.2026. It further reflects that the petitioner is involved in 10 other cases, however, in 05 cases, he is on bail, in 01 case, he has been discharged and in 02 of the cases, he has been acquitted.

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.

20. xxxxx

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. xxxxx

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. 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. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail.

11. 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.

12. However, if the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in this case.

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

24.04.2026

rittu

**(RAJESH BHARDWAJ)
JUDGE**

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