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

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Date of decision: 18.02.2026

ASHWANI KUMAR @ RAJU**...PETITIONER****VERSUS****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. K.S.Dadwal, Advocate for the petitioner.

Ms. Ramta Chowdhary, DAG, 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.278 dated 18.11.2024, under Section 22 of NDPS Act, 1985, registered at Police Station Tanda, District Hoshiarpur.

2. Succinctly the facts of the case are that on 18.11.2024, police party while on patrolling, they saw one young boy coming on foot. On seeing the police party, he got perplexed and he took out a glazed envelope from his right pocket of his lower and threw it on the ground and tried to escape. On suspicion, he was apprehended. On asking, he disclosed his name to be Ashwani Kumar @ Raju (present petitioner). He was suspected to be carrying some contraband. Thus, search was carried out. On conducting the search, 115 loose intoxicant tablets were recovered from the envelop having been thrown by the petitioner. He failed to produce any license regarding the possession of the same and he was arrested at the spot. On registration of FIR, investigation commenced. The samples taken were sent to the FSL. On receipt of the FSL, the challan was presented. On framing of charges, trial commenced. He approached the learned

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the sides and finding no merit in the same, the learned Judge, Special Court, Hoshiarpur declined the bail application vide order dated 16.04.2025. Aggrieved by the same, petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He further submits that the alleged recovery has been effected from a public place and no independent witness has been joined and the provisions of Section 50 of the NDPS Act have been violated. He further submits that petitioner is behind bars since 18.11.2024 and he is involved in two more case, however, he is on bail in those cases. He further submits that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the petitioner was arrested at the spot. She further submits that the contraband recovered weighing 13.57 gram of Etizolam, falls under the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. He further submits that petitioner is involved in two more cases. He, on instructions, out of 08 prosecution witnesses, none has been examined till date. He has placed on record the custody certificate of the petitioner.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the alleged recovery was effected from the public place. Custody certificate produced would show that the petitioner has completed incarceration of 01 year, 01 month and 05 days as on 16.02.2026 and he is involved in two



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witnesses, none has been examined till date.

7. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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



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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 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.

9. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view, 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. Accordingly, the present petition is allowed. 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.

18.02.2026
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(RAJESH BHARDWAJ)
JUDGE

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