



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

CRM-M-27828-2025

Date of decision : 25.02.2026

Ashok Kumar @ Guddu

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Lohit Bimal, Advocate
Mr. Suhit Jain, Advocate and Mr. Raghav Bimal, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed by the petitioner praying for grant of regular bail to him in case FIR No.43 dated 05.02.2023, under Sections 20(b)(ii)(C) and 29 of NDPS Act (Section 29(1) added later on), registered at Police Station Furrukh Nagar, District Gurugram.

2. Succinctly, facts of the case are that the police party on 05.02.2023 received a secret information to the effect that Ashok Kumar @ Guddu (petitioner) is involved in selling intoxicant Ganja and would be coming from Palwal side on KMP Expressway in Vehicle No.HR 63C 8806 Open Trola and in case of barricade, he could be arrested along with the contraband. On receiving the information, the police party after sending notice under Section 42 of the NDPS Act laid the barricading and as per information given by the secret informer, vehicle as disclosed in the secret information was stopped and driver of the same disclosed his name to be Ashok Kumar @ Guddu who was suspected to be carrying the contraband in the vehicle and thus, the search of the same was conducted.



On conducting the search, 14 jute sacks filled with suspicious intoxicants in the trolly were recovered and total Ganja was found to be weighing 285 kgs. He failed to produce any license regarding possession of the same and thus, was arrested on the spot. On registration of the FIR, investigation commenced. The samples taken were sent to the FSL. Petitioner was arrested on 05.02.2023. He approached the Court of learned Additional Sessions Judge, Gurugram praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide order dated 13.09.2023. Being aggrieved, petitioner earlier approached this Court by way of filing of CRM-M-51130-2023, however, the same was dismissed as withdrawn by this Court on 01.02.2024. Hence, petitioner is before this Court by way of filing the present second petition.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the petitioner is behind bars from last 03 years. To buttress his arguments, he submits that the petitioner has no criminal antecedents. He submits that on the basis of the present FIR, the petitioner was prosecuted in another complaint under The Prevention of Money Laundering Act, 2002, however, he is already on bail. He submits that no other case is there under the NDPS Act. He thus, submits that petitioner deserves to be granted bail.

4. Status report by way of additional affidavit of Mr. Yogesh, HPS, Assistant Commissioner of Police, has been filed on behalf of respondent-State in the Court today, same is taken on record.

5. Learned State counsel has opposed the submissions made by



counsel for the petitioner. He submits that the petitioner was arrested on spot and recovery of 285 kgs of *ganja* was effected, which falls under the commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted. He has produced the custody certificate of the petitioner. He further submits that out of 20 prosecution witnesses, 11 witnesses have been examined as on date.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the case of the prosecution is based on the secret information. Petitioner in the present case was arrested on 05.02.2023. Custody certificate produced by the State would show that the petitioner has suffered an incarceration of 03 years and 12 days as on 24.02.2026. It further reflects that petitioner is involved in one more case, however, the same is under the PML Act, and not under the NDPS Act. Out of total 20 prosecution witnesses, 11 witnesses have been examined. Needless to say that speedy trial is the fundamental right of every accused.

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 petitioners is covered by the ratio of law laid down by the Hon'ble Supreme Court. In this 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.

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.

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 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. 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.”



10. 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.

11. 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. 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. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

25.02.2026
ps-I

(**RAJESH BHARDWAJ**)
JUDGE

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