



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

CRM-M-26110-2025

Date of decision : 20.01.2026

Ashok Kumar @ Chotu

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Bhupinder Kumar Gupta, Advocate for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail to the petitioner in case FIR No.53 dated 20.07.2024, under Section 20, 61 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Division 2, District Police Commissionerate Ludhiana.

2. Succinctly the facts of the case are that on 20.07.2024, the police party while on patrolling, saw a young person carrying a heavy bag on his shoulder. On seeing the police, he got perplexed and tried to escape, however, he was apprehended by the police party. On asking, he disclosed his name to be Ashok Kumar @ Chotu. He was suspected to be carrying some contraband and thus, search of the bag was conducted. On conducting the search of the bag, 5 kgs of ganja was recovered from the same. He failed to produce any licence regarding possession of the same and thus, the FIR was registered and he was arrested on spot. Investigation commenced. During investigation, the petitioner made a disclosure statement about more contraband having been stored in his house and thus, the same was raided and 35 kgs and 200 grams of ganja was recovered from his house and thus, total 40 kgs and 200 grams of ganja has been recovered. On completion of investigation, challan was presented



and on framing of charges, the trial commenced. The petitioner approached learned Judge, Special Court, Ludhiana for grant of bail, however, after hearing both the sides, the same was declined by the trial Court, Ludhiana vide order dated 31.01.2025. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by counsel for the petitioner that the present has been falsely implicated in the present case. He submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agencies. He submits that even otherwise the alleged recovery which was effected from the house is not owned by the petitioner rather it was a rented accommodation and thus, conscious possession of the same is not proved. He submits that there is violation of provisions of Section 50 of NDPS Act. He submits that though the petitioner is falsely involved in one more case under the NDPS Act, however, he is on bail in the said case. He submits that the petitioner is behind bars from last 1 ½ years, however, there is no material progress in the trial and thus, his right of speedy trial is being defeated. He, thus, in the facts and circumstances of the present case, he deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the recovery effected from the petitioner is 40 kgs and 200 grams of ganja, which is commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted in the present case. He, on instructions, has submitted that out of total 15 prosecution witnesses, none has been examined till date. He has produced the custody certificate of the petitioner.

5. On hearing counsel for the parties and perusing the record, it



is deciphered that the recovery effected from the petitioner is 40 kgs and 200 grams of ganja, however, it has been contended before this Court that the same is in violation of Section 50 of NDPS Act and it is from a rented accommodation. Till date no witnesses has been examined out of total 15 prosecution witnesses. As per the custody certificate, petitioner has suffered an incarceration of 01 year, 05 months and 27 days as on 19.01.2026. It further reflects that the petitioner is involved in one more case, however, he is on bail in the said case. This Court would refrain from going into the merits of the case and the same would lie within domain of the trial Court.

6. 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.

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 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 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 Court/Duty Magistrate.

20.01.2026
ps-I

(RAJESH BHARDWAJ)
JUDGE

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