



225

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

**CRM-M No.29537 of 2026
Date of Decision:27.05.2026**

Suresh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr Lalit Kumar Yadav, Advocate
for the petitioner.

Ms. Diya Sodhi, Sr. DAG, Haryana.

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.10, dated 10.01.2025, under Section 20(b)(ii)(C) of NDPS Act, registered at Police Station Kalanaur, District Rohtak.

2. Succinctly, the facts of the case are that the police party while on patrolling on 10.01.2025 at College Mod, Kalanaur, Rohtak, received a secret information to the effect that Suresh was involved in the sale of narcotic substances and presently, he was sitting outside New Prajapati Tobacco Shop near Ravidas Temple, Kalanaur along with the narcotic substances. It was informed that he was wearing a white kurta pajama and tobacco coloured jersey and in case of raid, he could be



apprehended along with the contraband. On receiving the secret information, the raiding party was constituted and reached the place as disclosed in the secret information. One person, as disclosed in the secret information, was seen standing there, who was carrying a plastic bag in his right hand, however, he was apprehended by the police party. On asking, he disclosed his name to be Suresh. He was suspected to be carrying some contraband in the plastic bag being carried by him and thus, search of the same was conducted. On conducting the search of the plastic bag, 1 Kg 75 grams of Charas and 7 Kg 310 grams of Ganja was recovered. He failed to produce any licence regarding the conscious possession of the same and 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 Additional Sessions Judge, Rohtak praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Rohtak declined the bail application filed by the petitioner vide order dated 04.04.2026. Hence being aggrieved, the petitioner is before this Court praying for the grant of regular bail by way of filing the present petition.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that evidently the case of the prosecution is based on the secret information, however, there is a violation of mandatory



provisions of Section 42 of NDPS Act. He has submitted that the alleged recovery in the present case has been effected from the public place but no independent witness has been joined. He has submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act as well in conducting the search. He has submitted that the conscious possession of the petitioner is also not proved. He has submitted that as per the statute, the contraband, i.e. Charas above 1 Kg is commercial in nature, whereas in the present case, it is 1 Kg 75 Grams and further the alleged recovery of Ganja, i.e. 7 Kg 350 grams is a non commercial quantity. He has submitted that though the petitioner was falsely implicated in other cases, however, he is on bail in all those cases. He has submitted that the petitioner is behind bars from last more than 01 year, however, there is no material progress in the trial and thus, his right of speedy trial has been miserably defeated. 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. She has submitted that the petitioner was specifically named in the secret information. She has submitted that on due compliance of the statutory provisions of NDPS Act, the alleged recovery of 1 Kg 75 Grams of Charas and 7 Kg 350 Grams of Ganja was effected from the petitioner. She has submitted that though the recovered contraband, i.e. Ganja is a non commercial quantity, whereas, the contraband, i.e. Charas being commercial in nature and thus, the provisions of Section 37 of NDPS Act are attracted. She, on instructions, has submitted that out of total 22



prosecution witnesses, only 04 witnesses have been examined so far. She has submitted that the petitioner is involved in 02 other cases. She 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 case of the prosecution is based on the secret information. The petitioner was arrested in the present case on 10.01.2025 on the allegations of the recovery of 1 Kg 75 Grams of Charas and 7 Kgs 350 Grams of Ganja and since then, he is behind bars. As submitted before this Court by learned counsel for the petitioner that there is a violation of mandatory provisions of Sections 42 & 50 of NDPS Act. The recovery effected in the present case is from the public place but no independent witness has been joined. Admittedly, the quantity above 1 Kg of charas is commercial in nature and in the present case the quantity recovered is 1 Kg 75 grams of Charas and thus, the recovered contraband, i.e. Charas is commercial in nature whereas the contraband, i.e. Ganja is a non commercial quantity. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 04 months and 14 days as on 26.05.2026. It further reflects that the petitioner is involved in 02 other cases, however, he is on bail in both the cases. Out of total 22 prosecution witnesses, 04 witnesses have been examined so far.

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 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.

9. 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.

10. 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.

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

27.05.2026

rittu

(RAJESH BHARDWAJ)
JUDGE

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