

**114 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-36746-2025****Date of decision : 10.03.2026****Harjinder Singh @ Shinda****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. P.S. Sekhon, Senior Advocate with
Mr. L.S. Sekhon, Advocate and
Mr. Parshant, Advocate
for the petitioner.

Mr. Raj Karan Singh, AAG, 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.17 dated 11.03.2025, under Sections 22 and 29 of the NDPS Act, 1985, registered at Police Station Bakhshiwala District Patiala.

2. Succinctly facts of the case are that the police party while on patrolling on 11.03.2025, saw a Swift Dzire car of White colour bearing registration No.PB-15U-7393. On seeing the police, the driver of the car got perplexed and tried to reverse it. On suspicion, the car was stopped. On asking, the driver of the car disclosed his name as Harjinder Singh @ Shinda (petitioner). One heavy polythene bag of white colour was seen lying near the gear box of the car. He was suspected to be carrying some contraband, thus, the polythene bag which he was carrying was searched. On conducting the search of the bag, 480 loose intoxicant capsules were recovered. He failed to produce any license regarding the possession of the same. Thus, FIR was registered and petitioner was arrested on the

spot. The samples taken were sent to the FSL. On receiving the report of



FSL, challan was presented and on framing of the charges, trial commenced. Petitioner approached the Court of learned Judge, Special Court, Patiala, praying for grant of bail, however, after hearing counsel for the parties and finding no merits, the same was declined vide order dated 03.06.2025. Aggrieved by the same, petitioner is before this Court by way of filing the present petition.

3. Learned Senior counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery has been effected from the public place, however, no independent witness has been joined. He further submits that there is blatant violation of provisions of Section 50 of the NDPS Act. To buttress his arguments, learned Senior counsel has relied upon the FSL report. He submits that as per the report of FSL, the average weight of entire capsule is 535 mg per capsule whereas, the average weight of powder contained in capsule is 432 mg per capsule. He further submits that if weight of total contraband contained in the capsules is taken into consideration then the weight of recovered contraband would be 207.36 grams not 256.8 grams as has been relied upon by the prosecution. He submits that the alleged recovery from the petitioner is non-commercial and hence, provisions of Section 37 of the NDPS Act are not attracted in this case. He submits that though the petitioner is involved in 07 other cases, however, in some cases, he is on bail and in some cases, he has been acquitted. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted regular bail.

4. Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He submits that the petitioner is a habitual offender who is involved in 07 other cases. He



has controverted the arguments advanced by learned Senior counsel and has submitted that the total weight of the contraband including that of capsules would be taken into consideration and thus, total weight of the contraband recovered would be 256.8 grams which is a commercial quantity, thus, the provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he submits that out of 12 prosecution witnesses, 07 witnesses remain to be examined. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery is effected from the public place. The alleged recovery of 480 loose capsules containing Tramadol has been effected. The arguments has been advanced regarding total weight of the contraband. This Court while dealing with the bail petition would refrain itself from commenting anything on the merits of the case as the same lies within the domain of the trial Court and is to be assessed on appreciation of the evidence. However, even if the total weight of the contraband as contended by learned State counsel is taken into consideration, the same would be 256.8 grams and as per the Statue, the quantity above 250 grams is commercial in nature. Custody certificate filed by the State would show that the petitioner has undergone actual sentence of 11 months and 22 days as on 09.03.2026. It further reflects that though there are 07 other cases registered against the petitioner, however, in 05 cases, he is on bail; in 01 case, he has undergone the sentence and in remaining 01 case, he has been acquitted. As submitted, out of 12 prosecution witnesses, 07 witnesses are yet to be examined.

6. 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 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.

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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.

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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.'

7. Keeping in view the facts and circumstances of the case this Court is of the opinion that learned Senior 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

10.03.2026
m.sharma

(**RAJESH BHARDWAJ**)
JUDGE

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