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

CRM-M-38666-2025

Date of decision : 27.02.2026

Tejpal

....Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Satnam Singh Gill, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.28 dated 16.01.2025, under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Thanesar, District Kurukshetra.

2. Succinctly the facts of the case are that the Police party while on patrolling on 16.01.2025, received a secret information to the effect that Tejpal (present petitioner) is involved in selling of opium. It was informed that he was roaming around the parking of southern gate of Devi Lal Park in order to sell the opium and if the raid is conducted, he could be arrested along with the contraband. On receiving the information, the police reached the place as disclosed in the secret information. A person resembling in the secret information was seen there, having a black coloured bag with him. On asking, he disclosed his name to be Tejpal (present petitioner). He was suspected to be carrying some contraband in

the bag, hence, the same was searched. On conducting the search of the



bag, 3 kg 100 grams of opium was recovered from the same. He failed to produce any license regarding possession of the same and hence, the FIR was registered and he was arrested on spot. The investigation commenced. The samples taken were sent to the FSL. On receipt of FSL report, challan was presented and on framing of charges, trial commenced. The petitioner approached the Court of Learned Additional Sessions Judge, (FTSC/NDPS), Kurukshetra praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned trial Court vide order dated 28.04.2025. Aggrieved by the same, the petitioner is before this Court by way of filing of present petition for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the present case is based on the secret information, however, there is violation of provisions of Section 42 of NDPS Act. He submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that there is blatant violation of mandatory provisions of Section 50 of NDPS Act, while conducting the search. He submits that even otherwise the conscious possession of the contraband from the petitioner is not proved. To buttress his arguments, he submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He submits that the petitioner is behind bars from last more than 01 year, however, there is no material progress in the trial. He thus, submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the



petitioner was specifically named in the secret information. He submits that on conducting the search, recovery of 3 kgs 100 grams of opium, was effected, which falls under the 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 14 prosecution witnesses, only 01 witness has been examined so far. He has produced the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since the date of his arrest. The alleged recovery of 03 kgs 100 grams of opium, in the present case, has been effected from a public place, which admittedly falls under the category of commercial quantity. As per custody certificate, the petitioner has suffered an incarceration of 01 year, 01 month and 02 days as on 26.02.2026. It further reflects that the petitioner has no criminal antecedents as he has never been involved in any other case. As submitted before this Court, out of total 14 prosecution witnesses, only 01 witness has been examined so far.

6. 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.

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 to the petitioner.



9. 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.

27.02.2026
ps-I

(RAJESH BHARDWAJ)
JUDGE

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