



119+128

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-41590-2025

ArjanPetitioner

versus

State of Punjab Respondent

2. CRM-M-64804-2025

Sukhdeep KatariaPetitioner

versus

State of PunjabRespondent

Date of decision: 11.03.2026

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. K.S. Brar, Advocate and
Mr. Naresh Jain, Advocate
for the petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. By way of this common order, this Court intend to dispose of
abovesaid two petitions as they have arisen out of the same FIR.

2. Petitioners have approached this Court by way of filing the
present petitions praying for grant of regular bail to them in case FIR
No.170 dated 17.12.2024, under Section 22-C of the NDPS Act, 1985,
registered at Police Station Gidderbaha, District Shri Muktsar Sahib.

3. Succinctly, facts of the case are that the police party while on
patrolling on 17.12.2024 were going for checking of suspicious persons in
Gidderbaha City from Baba Ganga Ram Dera near flyover canal towards
Nihal Dhaba by the link road along with the canal. Whey they reached about



500 meters from flyover canal, they saw two young men carrying a bag. On seeing the police, they threw the bag on the ground and tried to escape. On suspicion, both were apprehended. On asking, they disclosed their names as Sukhdeep Kataria (petitioner in CRM-M-64804-2025) and Arjan (petitioner in CRM-M-41590-2025). They were suspected to be carrying some contraband. Thus, the search was conducted and from the bag thrown by them on the ground, 180 bottles of Codeine Phosphate and Triprolidine Hydrochloride Syrup Wincerex Cough Syrup 100 ml were recovered. Their personal search was also conducted and from the right pocket of joggers of petitioner-Sukhdeep Kataria, a Realme mobile phone and from the inside pocket of the coat worn by him, Rs.500/- currency notes were recovered and from the right pocket of trouser of petitioner-Arjan, a Samsung mobile phone and from his shirt, Rs.200/- currency notes were recovered. They failed to produce any license regarding the possession of the contraband. Thus, the FIR was registered and both were arrested on the spot. The investigation commenced. On completion of the investigation, challan was presented and charges were framed. Petitioners approached the Court of learned Judge, Special Court, Moga, praying for grant of regular bail. However, after hearing counsel for the parties, learned Judge, Special Court, Sri Muktsar Sahib declined the same vide orders dated 01.05.2025 and 01.08.2025, respectively. Hence, petitioners have approached this Court by way of filing the present petitions.

4. It has been submitted by learned counsel for the petitioners that petitioners have been falsely and frivolously implicated in the present cases. It has been submitted that as per the case of prosecution, the alleged recovery was effected from the public place, however, no independent



witness joined. It has been submitted that petitioners were alleged to be jointly carrying one bag, from which, 180 bottles of Wincerex Cough Syrup, has been recovered. It has been contended that there is a violation of mandatory provisions of Section 50 of the NDPS Act as the conscious possession in itself is not proved. To buttress their arguments, learned counsel have submitted that petitioners have not been involved in any other of similar nature. They have relied upon the judgments of Hon'ble Supreme Court titled as *Sambhu Sahani etc. Vs. State of West Bengal, SLP(Crl.) No.16102-2025; Hapijul Molla and another Vs. State of West Bengal, SLP(Crl.) No.19225-2025; and Mohidul Sarkar Vs. The State of West Bengal, SLP(Crl) Nos.15668-2023.*

5. Learned State counsel has opposed the submissions made by learned counsel for the petitioners. He has submitted that both the petitioners were arrested on the spot and 180 bottles of Wincerex Cough Syrup were recovered from the bag which they were carrying. He has submitted that total weight of the contraband would be 22.194 kgs of Codeine Phosphate, which is a commercial quantity and thus, the provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he has submitted that out of 19 prosecution witnesses, none has been examined till date. He has placed on record the custody certificates of the petitioners.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery in the present case is stated to be effected from the public place and as contended before this Court, no independent witness was joined. Custody certificates filed by the State show that the petitioners have undergone incarceration of 01 year, 02



months and 17 days as on 10.03.2026. Custody certificate of petitioner-Arjan @ Kalu reflects that though he is involved in one more case, however, he is bail in that case. Custody certificate of petitioner-Sukhdeep Kataria reflects that he is not involved in any other case. As submitted by learned State counsel, out of 19 prosecution witnesses, none has been examined so far. Needless to say that speedy trial is the 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 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.

20 xxxxx

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.

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 conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the cases will take sufficiently long time. However, keeping in view the overall facts and circumstances of the present cases, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their 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.

11.03.2026
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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