



146

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

CRM-M-43327-2025

Date of decision : 26.02.2026

Amarjit Singh @ Kalu**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Chahit Bansal, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of filing the present petition praying for grant of regular bail to him in case FIR No.140 dated 30.07.2024, under Sections 18(b), 27(a) and 29 of the NDPS Act, registered at Police Station Titram, District Kaithal.

2. Succinctly facts of the case are that the police party while on patrolling on 30.07.2024 received a secret information that Amarjeet Singh @ Kalu (petitioner) and Babbu are involved in business of smuggling of narcotic substance i.e opium in their truck bearing No.PB-11BR-5089. It was further informed that they were going from Panipat to Gobindgarh and if barricading is laid, they could be arrested along with the contraband. On receiving the secret information reliable, a raiding party was constituted and reached at the disclosed place. As disclosed, the vehicle was seen coming on the highway from Titram side and the same was stopped. On asking, the driver of the vehicle disclosed his name as Amarjit Singh @ Kalu and the person sitting on conductor seat, disclosed his name as Babbu. They were suspected to be carrying some contraband and thus,



search of the vehicle was conducted. On conducting the personal search of Babbu, 80 grams of opium was found in the pocket of his lower and on search of the truck, 4.40 kgs opium was recovered from the air cleaner near conductor window. They failed to produce any licence regarding possession of the same. Hence, they were arrested on the spot and on registration of the FIR, the investigation commenced. On completion of the investigation, challan was filed and on framing of charges, trial commenced. Petitioner approached the Court of learned Additional Sessions Judge, Kaithal, however, after hearing counsel for the parties and finding no merits, the same was declined vide order dated 28.07.2025. Hence, being aggrieved, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the case of the prosecution is based on secret information. He submits that the alleged recovery is from the public place however, no independent witness has been joined and thus, mandatory provisions of Section 42 of the NDPS Act has not been complied with. He submits that the alleged recovery is from air cleaner of the truck and thus, conscious possession from the petitioner itself is not proved. He further submits that at the time of the alleged recovery, petitioner and co-accused namely, Babbu were said to be present in the truck whereas, Babbu has already been granted bail by this Court vide order dated 08.07.2025. He further submits that there is blatant violation of provisions of Section 50 of the NDPS Act. To buttress his arguments, learned counsel for the petitioner submits that petitioner has no criminal antecedents as he has never been involved in any other case. He submits that the petitioner is behind the bars from last 1 ½ years but there is



no material progress in the trial thus, the right of speedy trial of the petitioner is miserably defeated in this case. He thus, prays for grant of regular bail to the petitioner.

4. Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He submits that there was a specific secret information regarding the petitioner along with the co-accused who were transporting the alleged contraband in the truck. He further submits that the petitioner was found to be the driver of the truck. He further submits that on the search of the truck, contraband weighing 4.40 kgs of opium was recovered and from the personal possession of the co-accused Babbu, 80 grams of opium was recovered. The recovered contraband falls under commercial quantity and thus, the provisions of Section 37 of the NDPS Act are attracted in this case. He submits that in all there are 04 accused and rest 03 accused are on bail. On instructions, he submits that out of 25 prosecution witnesses, none has been examined till date. 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 case of the prosecution is based on the secret information. The alleged recovery is from the public place. Rest of the 03 co-accused are on bail. The recovery of contraband as alleged is 4.40 kgs of opium from the truck and 80 grams from the conscious possession of co-accused Babbu. As submitted, out of 25 prosecution witnesses, none has been examined so far. Custody certificate filed by the State shows that the petitioner has undergone incarceration of 01 year, 06 months and 21 days as on 25.02.2026. It further reflects that there is no other case against the petitioner.



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.

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.'

7. 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 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 trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

26.02.2026
m.sharma

(**RAJESH BHARDWAJ**)
JUDGE

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