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223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47654-2025

Date of decision: 04.02.2026

VISHAL @ BAHMAN

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Ms. Ramta Chowdhary, DAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.115, dated 06.07.2024, under Sections 21/22/61 of NDPS Act, 1985, registered at Police Station Garhshankar, District Hoshiarpur, Punjab.
2. Succinctly the facts of the case are that the police party, while on patrolling on 06.07.2024, saw a young man and a woman standing with a bullet motorcycle. On seeing the police, both starting escaping on their motorcycle. While escaping, driver of the motorcycle threw a black colour bag on the left side of the road whereas the woman threw a purse, which she was holding in her hand. The police chased them and thereafter both of them were apprehended. Driver of the motorcycle, on asking, disclosed his name to be Ajit Kumar @ Bhiri whereas the woman disclosed her name to be Rajwinder Kaur. The bag and purse thrown by them were searched. On searching the black colour bag thrown by Ajit Kumar, Rs.1 Lac drug money, one I phone 7, two polythene envelopes, i.e. black and white colour were recovered. From the search of white colour envelope, 210

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grams of heroin was recovered and from the search of black colour envelope, 06 strips each containing 15 intoxicant tablets mark Etizolam, weighing 0.5 mg were recovered. Whereas from the search of the purse thrown by the petitioner, 12 Buprenorphine injections were recovered. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of FSL report, the challan was presented. During the investigation, the accused made statements that they had procured the aforesaid narcotic substance from Bhupinder Singh. The said Bhupinder Singh was also arrested and made a statement that he had procured the narcotic substance from Vishal @ Bahman. On the basis of the same, the petitioner was arrayed as an accused and he was arrested on 19.07.2024. The petitioner approached the Court of learned Judge, Special Court, Hoshiarpur praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Hoshiarpur declined the petition filed by the petitioner vide order dated 09.08.2024. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-45722-2024 praying for the grant of bail, however the same was disposed of vide order dated 04.11.2024. Thereafter, petitioner filed CRM-M-26536-2025 praying for the grant of bail, however, the same was dismissed as not pressed vide order dated 20.05.2025. Hence being aggrieved, the petitioner is again before this Court praying for the grant of bail by way of filing the present third petition.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail to the petitioner on the basis of parity with that of the co-accused, namely, Rajinder Kaur. He has drawn the attention of this Court to the order dated



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Kaur has been granted regular bail by this Court. He submits that the petitioner has been implicated in the present case on the basis of disclosure statement of the co-accused. He further submits that petitioner is behind bars since 19.07.2024. He submits that on the basis of the parity, the petitioner deserves to be granted bail as the case of the petitioner is similar to that of the said co-accused, who has already been granted bail.

4. Learned State counsel has endorsed the factum of grant of bail to the co-accused of the petitioner as stated above and has not denied that the petitioner is at par with the co-accused, Rajwinder Kaur. She further submits that the contraband recovered weighing 24 ml of Bupremorphine, falls under the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted. She has produced custody certificate of the petitioner today in the Court and the same is taken on record.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner in the present case was arrayed as an accused on the basis of disclosure statement of the co-accused and he is behind bars since 19.07.2024. Co-accused, namely, Rajwinder Kaur is on bail and the case of the petitioner as stated is at par with them. Custody certificate produced would show that the petitioner has completed incarceration of about 01 year, 06 months and 12 days as on 03.02.2026 and he is not involved in any other case.

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 of law laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-



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.”

7. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides, this Court is of the opinion that learned counsel for the petitioner succeeds in making



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out a case for grant of regular bail to the petitioner on the basis of parity. 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.

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

04.02.2026
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(RAJESH BHARDWAJ)
JUDGE

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