



CRM-M-49019-2025

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

CRM-M-49019-2025

Date of Decision: 20.01.2026

Umesh Shah

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Narinder Singh Dadwal, Advocate,
for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.12 dated 22.01.2025, registered under Section 22 of NDPS Act, 1985 (Section 61 of the NDPS Act added lateron), at Police Station Sadar Nawanshahar, District SBS Nagar.

As per office note, present petition is the second petition, however, in the head note, it has been mentioned as first petition.

Learned counsel for the petitioner has submitted that present petition be treated as second petition.

On oral request of learned counsel for the petitioner, the present petition be treated as second petition in place of first petition.

Registry is directed to carry out necessary correction.

2. Succinctly, facts of the case are that on 22.01.2025, the police party while on patrolling when crossed Poultry farm and reached the motor, they saw young man coming on foot. On seeing the police, he got perplexed and turned back and threw a plastic polythene being held by him in his left hand. On suspicion, he was apprehended. On asking, he disclosed his name



to be Umesh Shah (petitioner). He was suspected to be carrying some contraband in the polythene which he threw and thus, search of the same was conducted. On conducting search, 30 tablets of Etizolam were recovered from the polythene. He failed to produce any licence regarding the possession of the same, and thus, on registration of the FIR, he was arrested on the spot. The investigation commenced. Samples taken were sent to the FSL. On receipt of the FSL report, challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Shaheed Bhagat Singh Nagar, praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 11.07.2025. Aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-22850-2025, however, the same was dismissed vide order dated 05.05.2025. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present second petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that the alleged recovery was effected from a public place, however, no independent witness has been joined and thus, there is a violation of Section 50 of the NDPS Act as well while conducting search. He submits that the alleged recovery has been planted upon the petitioner only in order to falsely implicate him in the present case. He submits that even otherwise, as per the statutory provisions of the NDPS Act, quantity above 2.5 grams of Etizolam is commercial, whereas, the



alleged recovery effected in the present case is 3.42 grams of Etizolam. To buttress his arguments, he submits that the petitioner has no criminal antecedents and he is behind the bars from the last about one year, however, the trial Court has not concluded the trial. He, thus, submits that in the overall facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has vehemently controverted the submissions made by counsel for the petitioner. It is submitted that recovery of 3.42 grams of Etizolam recovered from the petitioner, which falls under the commercial quantity and thus, the provisions of Section 37 of the NDPS Act, are attracted. On instructions, he has submitted that only three 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 effected from the petitioner is from a public place. As submitted before this Court, only three witnesses remain to be examined. The custody certificate would show that the petitioner has suffered incarceration of 11 months & 27 days as on 19.01.2026. It further shows that the petitioner has no criminal antecedents.

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:-

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. The veracity of the allegations would be assessed only after the 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 sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the



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petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. 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.

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

(RAJESH BHARDWAJ)
JUDGE

20.01.2026

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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No