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

CRM-M-49893-2025

Date of Decision: 06.04.2026

Mahipal

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajat Khanna, Advocate, for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.467 dated 30.07.2024, registered under Sections 22(C), 29-61-85 of NDPS Act, 1985 and Section 238 of BNS, 2023, at Police Station Krishna Gate, Thanesar, District Kurukshetra.

2. Succinctly, facts of the case are that on 30.07.2024, the police party while on patrolling received a secret information to the effect that Mahipal (the petitioner) opened a medicine shop in the name of Rama Medicos in Gandhi Nagar, Thanesar and in morning, he would bring opiate capsules in the dickey of his scooter and would sell the same to the drug addicts roaming nearby. It was informed that in case of barricading, he could be arrested alongwith the contraband. On receiving the information, barricading was laid and a man riding on the scooter as disclosed in the secret information was seen coming, who on seeing the police, tried to turn his scooter back. However, he was apprehended by the police officials. On asking, he disclosed his name to be Mahipal. On suspicion, search was conducted and on conducting search, 3064 capsules containing Tramadol



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were recovered from the dickey of the scooter. He failed to produced any licence regarding the possession of the same, and thus, on registration of the FIR, they were arrested on the spot. The investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Court of learned Additional Sessions Judge-cum-Judge, Special Court, Kurukshetra 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 14.11.2024. Earlier the petitioner approached this Court by way of filing CRM-M-26278-2025, however, the same was dismissed as withdrawn vide order dated 20.05.2025. 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 as per the case of the prosecution, the FIR was registered on the basis of the secret information. He submits that there is violation of Section 42 NDPS Act in the present case. He submits that the alleged recovery has been effected from a public place, however, no independent witness has been joined. He submits that there is violation of the mandatory provisions of Section 50 of the NDPS Act. He contends that conscious possession of the contraband is not proved against the petitioner as the same was recovered from the dickey of the scooter. To buttress his arguments, he submits that the petitioner has no criminal antecedents. He further contends that charges in the present case were framed on 07.11.2025, but despite seven opportunities, the prosecution has not examined any



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witness just to prolong the incarceration of the petitioner. He submits that out of total six accused, five accused are already on bail. He, thus, has submitted 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. He submits that recovery of 3064 capsules weighing 1649.30 grams of Tramadol were effected in the present case from the dickey of the scooter on which the petitioner was riding. He submits that the contraband recovered in the present case is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in the present case. On instructions, he has submitted that out of total 32 prosecution witnesses, no witness has been examined till date. He further submits that case of the co-accused, who have been granted bail, is distinguishable from that of the petitioner. 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 as per the case of the prosecution, FIR in the present case was lodged on the basis of secret information. The petitioner was arrested on 30.07.2024 and the alleged recovered in the present case was effected from a public place from the dickey of the scooter on which the petitioner was riding. As contended before this Court, there is violation of Sections 42 and 50 of the NDPS Act, in the present case. The custody certificate would show that the petitioner has suffered incarceration of 01 year & 08 months as on 03.04.2026. It further shows that the petitioner has no criminal antecedents.

No witness has been examined out of total 32 prosecution witnesses.



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



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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 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 her 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

06.04.2026

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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No2