



141+145(2 cases)

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

1. CRM-M-53300-2025

ShubhkaranPetitioner

versus

State of Haryana Respondent

2. CRM-M-73170-2025

ShardaPetitioner

versus

State of Haryana Respondent

Date of decision : 25.02.2026

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

**Present :- Mr. Sukhir Maandi, Advocate
for the petitioner in CRM-M-53300-2025.**

**Mr. Ajay Arora Bharti, Advocate for
Ms. Divya Narula, Advocate
for the petitioner in CRM-M-73170-2025.**

Mr. Tanuj Sharma, A.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

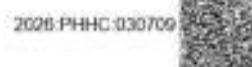
**1. By way of this common order, this Court intend to dispose of
abovesaid two petitions as they have arisen out of the same FIR.**

**2. Petitioners have approached this Court by way of present
petitions praying for granting them regular bail in case FIR No.57 dated
17.02.2025, under Sections 15(c), 27-A, 29, 61, 85 of Narcotic Drugs and
Psychotropic Substances Act, 1985 (Sections 318(4), 238-b, 336, 338,
340, 61(2) of BNS was added lateron), registered at Police Station
Ellenabad, District Sirsa.**



3. Succinctly, the facts of the present case are that the police party, while on patrolling on 16.02.2025, received a secret information to the effect that Sharda (petitioner in CRM-M-73170-2025) and Shubkaran (petitioner in CRM-M-53300-2025) were involved in selling of poppy husk. It was informed that they were sitting little ahead of T-Point towards Dhani Shera Wali road. If the raid is conducted, they could be apprehended along with contraband. On receiving the information, the raiding party reached at the place disclosed. A women and a boy was found sitting on the bags. They were suspected to be carrying some contraband thus, both were apprehended by the police party. On asking, they disclosed their names to be Shubhkaran and Sharda. They were suspected to be carrying some contraband in the bags on which they were sitting, thus, same was searched. On conducting the search, 70 kgs and 700 grams of poppy husk was recovered from the same. They failed to produce any licence regarding possession of the same and hence, the FIR was registered and they were arrested on spot. On registration of FIR, the investigation commenced. Samples taken were sent to the FSL. On completion of investigation, challan was presented. Petitioners approached Learned Additional Sessions Judge (FTSC/NDPS), Sirsa praying for grant of bail, however, finding no merit, their applications were declined after hearing both the sides by Learned trial Courts vide orders dated 03.09.2025 and 10.09.2025, respectively. Aggrieved by the same, petitioners are before this Court by way of filing of present petitions praying for grant of bail.

4. It has been submitted by learned counsels that the petitioners have been falsely implicated in the present case. It is submitted that case



of the prosecution is based on the secret information. It is submitted that the alleged secret information was received on 16.02.2025, whereas the FIR has been registered on 17.02.2025. It is submitted that there is a violation of the provisions of Section 42 of the NDPS Act. It is submitted that the alleged recovery has been effected from a public place, however, there was no independent witness joined by the investigation agencies. He further submits that the alleged recovery is from a public place and thus, conscious possession is not proved. To buttress their arguments, it is submitted that the petitioners have no criminal antecedents and their false implication is writ large. It is submitted that the petitioners are behind bars from last more than 01 year, however, till date even charges are not framed thus, their right of speedy trial is also defeated. It submitted that in the facts and circumstances of the case, petitioners deserve to be granted bail.

5. Learned State counsel has opposed the submissions made by the counsels for the petitioners and submits that the petitioners were specifically named in the secret information. It is submitted that on conducting the raid, both were arrested on spot and from their possession recovery of 70 kgs 700 grams of poppy husk was effected, which falls under the category of commercial quantity and thus, the provisions of Section 37 of NDPS Act, are attracted in the present case. He, on instructions, has submitted that though investigation is complete, challan has been presented, however, charges are yet to be framed. He has produced the custody certificates of the petitioners on record.

6. On hearing counsels for the parties and perusing the record, it is deciphered that the case of petitioners is admittedly on the basis of secret information. The alleged recovery is effected from a public place.



The petitioners are behind bars since the date of their arrest. As per custody certificates, petitioners have suffered an incarceration of more than 01 year as on 23/24.02.2026. It further reflects that the petitioners have no criminal antecedents. As per the statute, the quantity more than 50 kgs, is commercial quantity and from the petitioners, recovery of 70 kgs 700 grams of poppy husk was effected, which is a commercial quantity.

7. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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.

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.*

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.

9. This Court would refrain itself from commenting anything on the merits of the case. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, both the petitions are allowed. 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.

25.02.2026
ps-I

(RAJESH BHARDWAJ)
JUDGE

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