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

CRM-M-58201-2025

Date of Decision: 23.04.2026

Makhan Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Parminder Singh Sekhon, Sr. Advocate with
Mr. L.S. Sekhon, Advocate and
Ms. Sweedel Goyal, Advocate, for the petitioner.
Mr.K.D.Sachdeva, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.13, dated 06.03.2025, under Section 22 of NDPS Act, 1985, registered at Police Station Sherpur, District Sangrur.

2. Succinctly, the facts of the case are that the police party while on patrolling on 06.03.2025, received a secret information to the effect that Makhan Singh (petitioner) is involved in selling of intoxicating tablets. It was informed that today also he is waiting for his customers in Grain Market, Sherpur for selling intoxicating tablets and in case of raid, he could be arrested along with the contraband. On receiving the secret information, a raiding team was constituted and reached at the place as disclosed in the secret information. A young man was observed standing in the grain market at Sherpur. Upon noticing the police, he threw the transparent plastic bag he was holding on the ground and began walking briskly toward the wall. However, he was apprehended by the police. On asking, he disclosed his name to be Makhan Singh. On suspicion, search of the transparent bag



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thrown by Makhan Singh was conducted. On conducting search, 150 loose intoxicating tablets were recovered. He failed to produce any license regarding the conscious possession of the same. Thus, the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Sangrur praying for the grant of regular bail. However, after hearing both the sides and finding no merit in the same, learned Court declined the bail application filed by the petitioner vide order dated 25.09.2025. Hence being aggrieved, the petitioner is before this Court praying for the grant of regular bail by way of filing the present 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 contends that admittedly, the FIR in the present case was lodged on the basis of secret information. He has submitted that the alleged recovery has been effected from a public place, however, no independent witness has been joined and thus, there is violation of Section 42 of the NDPS Act. He further contends that conscious possession of the petitioner is also not proved and thus, there is violation of mandatory provision of Section 50 of the NDPS Act in effecting the alleged recovery. He contends that the petitioner is behind the bars from last ten months. He further contends that though the petitioner has been falsely implicated in two other cases, however, he is on bail in those cases. He contends that only 02 witnesses out of 12 prosecution witnesses, have been examined so far. He,



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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 the petitioner was specifically named in the secret information. He submits that on due compliance of the statutory provisions of the NDPS Act, recovery of 150 tablets weighing 17.1 grams of Etizolam, has been effected from the petitioner, which is commercial in nature and thus, provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he has submitted that out of total 12 prosecution witnesses, 02 witnesses have 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 as per the case of the prosecution, FIR in the present case was lodged on the basis of secret information. The alleged recovery in the present case was effected from a public place. 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 10 months & 09 days as on 22.04.2026. It further shows that the petitioner is involved in two other cases, out of which, he has been acquitted in one case and in another he has been arrested on the production warrants. Two witnesses have been examined out of total 12 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 ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'



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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. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

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

(RAJESH BHARDWAJ)
JUDGE

23.04.2026
sharmila

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