



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

CRM-M-61137-2025

Date of decision :23.03.2026

Binay Kumar Mishra

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

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.117 dated 25.02.2021, under Section 307 (Sections 420, 109, 120-B of IPC; Sections 20, 25, 27 of NDPS Act and Section 25 of the Arms Act, 1959 added later on), registered at Police Station Bhiwani Sadar, District Bhiwani, Haryana.

2. Succinctly, facts of the case are that the police party while on patrolling on 24/25.02.2021, received a secret information to the effect that the narcotic substance is being transported in a Tempo Traveller bearing No.HR61-C-8631 on Rohtak Hisar Road and if barricading is laid, narcotic substance could be recovered from the same. On receiving the information, the police reached the place as disclosed. Barricading was laid and the said Tempo Traveller was seen coming which was signalled to stop but the person sitting on driver seat tried to run his vehicle over police party with intention to kill them and the person sitting behind the driver seat fired firearm shots at the police party. However, the said vehicle was stopped and both persons were apprehended. On asking, the driver of the said vehicle

disclosed his name as Pardeep and the person sitting at back seat, disclosed



his name as Ajay. They were suspected to be carrying some contraband and hence, the search was conducted. On conducting the search of the vehicle, from the wooden box of the Tempo Traveller, 144 packets were recovered and every packet was wrapped with brown colour tape and hence, in total, 320 kgs 152 grams of Ganja was recovered. He failed to produce any license regarding possession of the same and thus, the FIR was registered and the investigation commenced. During investigation, complicity of the petitioner surfaced on the basis of disclosure statement of co-accused, namely, Anuj and thus, he was arrested on 20.03.2025. On completion of the investigation, challan was presented and charges were framed. Petitioner approached the Court of learned Additional Sessions Judge, Bhiwani, praying for grant of regular bail. However, after hearing counsel for the parties, the same was declined vide order dated 12.08.2025. Hence, being aggrieved, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner was arrayed as an accused on the basis of disclosure statement of co-accused, namely, Anuj which is not even an admissible evidence. He contends that co-accused-Anuj has already been granted bail by this Court in CRM-M-37422-2025 vide order dated 24.09.2025 and on the basis of parity, the present petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. However, he has endorsed the fact that case of the petitioner is at par with co-accused, namely, Anuj, who has already been granted bail by this Court. He has submitted that the recovered effected is 320 kgs 152 grams of Ganja, 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 challan has been filed, charges have been framed and out of 42 prosecution witnesses, 11 witnesses have been examined so far. He has produced custody certificate of petitioner, today in the Court, which is taken on record.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since the date of his arrest. As submitted by the State, out of 42 prosecution witnesses, 11 witnesses have been examined so far. The custody certificate produced would show that petitioner has suffered incarceration of 01 year and 02 days as on 22.03.2026. It further reflects that though the petitioner is involved 04 cases, out of which, in 01 case, he has been acquitted.

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 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 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 sufficiently 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 on the basis of parity with co-accused, Anuj who has already been granted regular bail by this Court vide order dated 24.09.2025 passed in CRM-M-37422-2025. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

8. If the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in the present case.

23.03.2026
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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