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

CRM-M-61309-2025

Date of Decision: 02.04.2026

Parwana

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Simi Kandra, Legal Aid Counsel, for the petitioner.

Mr.K.D.Sachdeva, DAG, 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.45 dated 06.03.2025, registered under Sections 22/29/61/85 of NDPS Act, 1985, at Police Station Kotwali Patiala, District Patiala.

2. Succinctly, facts of the case are that on 06.03.2025 the police party while on patrolling when reached from main road, Badi Nadi to road Patiala, they saw a young man coming. On seeing the police, he got perplexed and threw a heavy black wax envelope on the ground, which he was holding in his right hand. However, he was apprehended by the Police and on asking, he disclosed his name to be Parwana (petitioner). He was suspected to be carrying some contraband in the envelope thrown by him. Thus, search of the envelope was conducted and on conducting, 251 grams of intoxicating powder was recovered. 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. The petitioner approached the Court of learned Judge,



Special Court, Patiala 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 23.05.2025. Hence, the petitioner has approached this Court praying for 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. She submits that admittedly the alleged recovery is from a public place, however, no independent witness has been joined. She contends that the alleged recovery is from the personal search of the petitioner, but there is blatant violation of mandatory provisions of Section 50 of the NDPS Act. It is contended that though the petitioner has been falsely implicated in four other cases, however, he is on bail in three cases. She further contends that even otherwise, as per the schedule of the NDPS Act, above 250 grams of Tramadol is commercial quantity, whereas, the alleged recovery effected from the petitioner is 251 grams of Tramadol, which is marginally above the commercial quantity and the same even includes the weight of the envelope. She, thus, contended that it is debatable that whether the recovered contraband is commercial or non-commercial. She submits that the petitioner is behind the bars from the last more than one year, however, till date there is no material progress in the trial. She, 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. It is submitted that it is a



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case of chance recovery. It is submitted that from the search of the petitioner, 251 grams of Tramadol was recovered, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he has submitted that out of total 17 prosecution witnesses, one witness has 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 though the recovered contraband was commercial, however, the same is marginally above the commercial quantity. As contended before this Court, the alleged recovery was effected from personal search of the petitioner in a public place. Violation of mandatory provisions of Section 50 of the NDPS Act has been contended before this Court. The custody certificate would show that the petitioner has suffered incarceration of 01 year & 25 days as on 01.04.2026. As per the custody certificate, the petitioner is involved in four other cases and out of which in three cases he is on bail. Out of total 17 prosecution witness, one prosecution witness has been examined.

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



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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.

02.04.2026
sharmila

(RAJESH BHARDWAJ)
JUDGE

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