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

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Date of decision: 21.01.2026

GURBHINDER SINGH**...PETITIONER****VERSUS****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Prince Sharma, Advocate for the petitioner.

Mr. Raj Karan Singh, AAG, 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.076, dated 18.06.2021, under Sections 21 and 22 of NDPS Act, 1985 and Sections 489, 379, 411 of IPC, 1860 (later on added Section 29 of NDPS Act, 1985), registered at Police Station Sadar Patti, District Tarn Taran.

2. Succinctly, the facts of the case are that the police party, while on patrolling on 18.06.2021, when reached T-Point of Village Sabhra, they saw two persons were coming on a Hero motorcycle. On seeing the police, the driver of the motorcycle became apprehensive and tried to reverse the motorcycle. In the meantime, the pillion rider took out polythene bag from the pocket of his pant and threw it on the ground. However, the police apprehended them. On asking, the driver of the motorcycle disclosed his name to be Gurbhinder Singh (present petitioner) and the pillion rider disclosed his name to be Sukhwinder Singh alias Kalu. They were suspected to be carrying some contraband in the polythene bag thrown by the pillion rider. Thus, search was carried out. On conducting the search, 810 intoxicant tablets and 04 gram

of heroin were recovered from the polythene bag. They failed to produce any

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license regarding the possession of the same and they were arrested at the spot. On registration of FIR, investigation commenced. The samples taken were sent to the FSL. As per the FSL report, 810 tablets which were recovered, contains Tramadol, weighing 303.75 grams. On completion of investigation, the challan was presented and on framing of charges, trial commenced. He approached the learned Judge, Special Court, Tarn Taran for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Tarn Taran declined the bail application vide order dated 23.08.2021. Aggrieved by the same, petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery has been effected from a public place and no independent witness has been joined and the provisions of Section 50 of the NDPS Act have been violated. He further submits that though the petitioner has been convicted in one more case i.e. FIR No.206 dated 12.09.2020, under Sections 21/61/85 of NDPS Act, however, he has already completed his sentence in that case. He further submits that petitioner is behind bars since 05.12.2023. However, there is no material progress in the trial. He further submits that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the petitioner was arrested on spot along with the co-accused. The alleged recovery effected was of 810 loose tablets containing Tramadol weighing 303.75 grams, which is a commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted in the present case besides this 04 grams of heroin was also



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recovered. He, on instructions, has submitted that out of total 12 prosecution witnesses, only 01 has been examined so far. He further submits that the petitioner was granted interim bail vide order dated 23.08.2021 by the trial Court, however, he remained absent. Thereafter, he surrendered on 05.12.2023. He has produced the custody certificate of petitioner today in the Court and the same is taken on record.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 18.06.2021. However, he was granted interim bail vide order dated 23.08.2021 though he remained absent but thereafter, he surrendered on 05.12.2023. The alleged recovery has been effected from the public place. Custody certificate produced would show that the petitioner has completed incarceration of 02 year, 02 months and 19 days. It further reflects that the petitioner has been convicted in one more case, however, he has already completed the sentence in that case. Out of 12 prosecution witnesses, only 01 has been examined so far. Needless to say that speedy trial is the fundamental right of every accused.

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



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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.



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9. The Hon'ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

10. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in **‘Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024’**, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

11. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view, 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 this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed. 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.

21.01.2026
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(RAJESH BHARDWAJ)
JUDGE