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

CRM-M-69446-2025

Date of decision : 26.02.2026

Shera Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Abhaysher Singh, Advocate
for the petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of filing the present petition praying for grant of regular bail to him in case FIR No.90 dated 04.10.2023, under Section 21(c) of the NDPS Act, 1985 later on added Section 29 of NDPS Act vide DDR No.29 dated 04.10.2023 and Section 201 of IPC, 1860 vide DDR No.31 dated 13.12.2023, registered at Police Station Khem Karan, District Tarn Taran, Punjab.

2. Succinctly facts of the case are that the police party while on patrolling on 04.10.2023 when reached near Mehndipur drain bridge, they saw a clean shaven person coming on foot. On seeing the police, he got perplexed and turned back. He threw a black coloured polythene which he was holding on his right hand onto the roadside grass. On suspicion, he was apprehended. On asking, he disclosed his name as Shera Singh (petitioner). On conducting the search of the polythene, 1 kg of Heroin was recovered. He failed to produce any license regarding the possession of the same. Thus, FIR was registered and he was arrested on the spot. On registration of the FIR, investigation commenced. During investigation, he made a disclosure



statement to the effect that another 2 kgs of Heroin was lying in the house of co-accused i.e. his friend, namely, Narinder Singh @ Ninder. Thus, the police reached at the house of Narinder Singh @ Ninder and recovered another 2 kgs of Heroin. In this way, recovery of total 3 kgs of Heroin was effected in the present case. On completion of the investigation, challan was filed and on framing of charges, trial commenced. Petitioner approached the Court of learned Principal District & Sessions Judge, Tarn Taran, however, after hearing counsel for the parties and finding no merits, the same was declined vide order dated 29.11.2024. Hence, being aggrieved, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery is from the public place however, no independent witness has been joined and thus, mandatory provisions of Section 42 of the NDPS Act has not been complied with. He further submits that there is blatant violation of provisions of Section 50 of the NDPS Act. He submits that the petitioner has been falsely implicated on the allegation that recovery of 1 kg of Heroin and another quantity of 2 kgs of Heroin was effected on his disclosure however, recovery of another 2 kgs was effected from the house of co-accused. He vehemently contends that conscious possession is not even proved against the petitioner. He submits that petitioner is behind the bars from last more than 02 years thus, the right of speedy trial of the petitioner is miserably defeated in this case. To buttress his arguments, learned counsel for the petitioner submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He thus, prays for grant of regular bail to the petitioner.



4. Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He submits that the recovery of 1 kg of Heroin was recovered from the possession of the petitioner and on his disclosure, another 2 kgs of Heroin was recovered thus, in total, 3 kgs of Heroin was recovered in this case, which is commercial in nature, hence, the provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he submits that out of 13 prosecution witnesses, 05 witnesses have been examined. 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 the recovery in the present case is from the public place. As submitted, 1 kg of Heroin was recovered from the petitioner whereas, recovery of 2 kgs of Heroin was effected from the house of co-accused on the basis of disclosure statement of the petitioner. Custody certificate filed by the State shows that the petitioner has undergone incarceration of 02 years, 04 months and 17 days as on 25.02.2026. It further reflects that there is no other case against the petitioner. As submitted by the State, out of 13 prosecution witnesses, only 05 witnesses have been examined so far. Needless to say that every accused has the fundamental right of speedy trial.

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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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.*

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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 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.”

8. 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.

9. 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. Thus, keeping in view the overall facts and circumstances of the case, 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 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.

26.02.2026
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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