

CRM-M-72398-2025

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

CRM-M-72398-2025

Date of Decision: 17.03.2026

Raj Kumar @ Raju

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

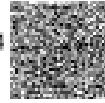
Present: Mr. Piyush Sharma, Advocate, for the petitioner.

Mr.Raj Karan Singh, AAG, 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.114 dated 16.09.2023, registered under Section 22 of NDPS Act, 1985, at Police Station Kulgarhi, District Ferozepur.

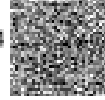
2. Succinctly, facts of the case are that on 16.09.2023 the police party while on patrolling when proceeding from village Jhok Harihar towards the link road of village Bukan Khan Wala, they saw a clean shaven person coming from the side of village Bukan Khan Wala. On seeing the police, he got perplexed and turned towards the unpaved path alongside the road. He took out a transparent polythene from his right pocket of the lower and threw towards the side of the unpaved path. On the basis of suspicion, he was apprehended by the Police and on asking, he disclosed her name to be Raj Kumar @ Raju (petitioner). He was suspected to be carrying some contraband in the polythene thrown by him. Thus, search of the polythene was conducted. On conducting search, 100 loose intoxicating tablets containing Etizolam were recovered from the same. 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, Ferozepur 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 27.10.2025. 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. He submits that the alleged recovery was effected from a public place, however, no independent witness has been joined. He submits that the alleged recovery was effected from a polythene and thus, conscious possession of the same is also not proved. He vehemently contends that the alleged recovery has been effected in a blatant violation of Section 50 of the NDPS Act as the same was not effected before the Gazetted officer or the Magistrate. To buttress his arguments, he submits that the petitioner has been falsely implicated in one more case, however, he is on bail in the same. He submits that the investigation is complete and charges have been framed, however, there is no progress in the trial. He, 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 case of chance recovery. The petitioner was coming on foot and on seeing the police, he threw a polythene bag taking out it from his right pocket of the lower and on search of the same, 100 intoxicating tablets containing

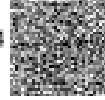


Etizolam, were recovered. He submits that as per the FSL report, the contraband recovered from the petitioner was found to be 13.1 grams of Etizolam, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he has submitted that out of total 07 prosecution witnesses, no 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 the alleged recovery of 13.1 grams of Etizolam was effected from a public place. As contended before this Court, no independent witness has been joined. It is also contended that there is violation of Section 50 of the NDPS Act. The custody certificate would show that the petitioner has suffered incarceration of 01 year, 01 month & 08 days as on 16.03.2026. As per the custody certificate, though the petitioner is involved in two other cases, however, he is on bail in one case. Out of total 07 prosecution witness, no 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.

8. 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.

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
17.03.2026		
sharmila	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No