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

**CRM-M No.72529 of 2025
Date of Decision: 09.01.2026**

Akash @ Akash Masih @ Garari**..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Ms. Samanpreet Kaur, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.9, dated 11.01.2024, under Sections 21, 29, 61, 25 of NDPS Act, 1985, registered at Police Station City Gharinda, District Amritsar Rural.

2. Succinctly the facts of the case are that the police party, while on patrolling on 11.01.2024, received a secret information to the effect that 02 boys, namely, William Masih and Akashdeep Masih (petitioner) were coming on their motorcycle bearing registration No.PB-02-EG-8599 and they were carrying the huge quantity of Heroin. It was informed that in case of barricading, they could be apprehended along with the heavy quantity of contraband. On receiving the secret information, the barricading was laid at the place as disclosed in the secret information. 02



boys were seen coming on the motorcycle and thus, both were stopped. On asking, driver of the motorcycle disclosed his name to be Akashdeep Masih (petitioner) whereas the person riding pillion disclosed his name to be William Masih. They were suspected to be carrying some contraband and thus, their search was conducted. On conducting the search, 1 Kg 500 Grams of Heroin was recovered from the Jacket of the pillion rider, namely, William Masih. They failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and both were arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Amritsar declined the bail application filed by the petitioner vide order dated 07.09.2024. Being aggrieved, the petitioner earlier approached this Court praying for the grant of bail by way of filing CRM-M-61423-2024, however the same was dismissed as not pressed vide order dated 19.03.2025. Hence being aggrieved, the petitioner is again before this Court by way of filing the present second petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. She has submitted that the case of prosecution is based on the secret information, however, there is a violation of mandatory provisions of Section 42 of NDPS Act. She has submitted that the alleged recovery effected in the present case is from the personal search of the co-accused, however there is a violation of mandatory provisions of Section 50 of NDPS act as well.



To buttress her arguments, she has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case. She has submitted that the petitioner is behind bars from last more than 02 years, however there is no progress in the trial. She has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner was specifically named in the secret information. He has submitted that the petitioner was riding the motorcycle and the recovery was effected from the pillion rider. He has submitted that the contraband recovered in the present case is 1 Kg 500 Grams of Heroin, which is commercial in nature and thus, the provisions of Section 37 NDPS Act are attracted. He, on instructions, has submitted that only the challan has been presented in this case. He has produced custody certificate of the petitioner today in the Court, which is taken on record.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the case of prosecution is based on the secret information. Though the recovery in the present case is 1 Kg 500 Grams of Heroin, however the same has been effected from the co-accused. The petitioner is behind bars since 11.01.2024. Custody certificate produced would show that the petitioner has suffered an incarceration of 01 year, 11 months and 23 days as on 08.01.2026. It further reflects that the petitioner is not involved in any other case. Only the challan has been presented in this case so far. Needless to say that every accused has the fundamental



right of speedy trial.

7. 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.

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 the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.
9. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail.
10. 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.

09.01.2026

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(RAJESH BHARDWAJ)

JUDGE