



more bag was recovered from the car in which they were traveling. On conducting the search of the bags, 450 capsules Rimdol-50-Tramadol Hydrochloride were recovered from the bag which was thrown by the co-accused Deepak Puri and 150 capsules Rimdol-50-Tramadol Hydrochloride were recovered from the bag recovered from Surjit Kailey @ Happy (petitioner). They failed to produce any licence regarding possession of the same. Hence, they were arrested on the spot and on registration of the FIR, the investigation commenced and recovered substance was sent to the FSL lab. As per FSL report, capsules recovered found to be containing total 255 grams Tramadol salt. Challan was presented. On framing of charges, the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Jalandhar 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 09.11.2022. Thereafter, petitioner approached this Court by way of filing CRM-M-36302-2023 which was dismissed vide order dated 22.08.2023. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present second petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been roped in the present case on the basis of the secret information. He submits that the recovery as alleged has been planted upon the petitioner as no independent witness has been joined. He submits that there is violation of Section 50 as well as other mandatory provisions of the NDPS Act. He further submits that after registration of the FIR, petitioner was granted interim bail on 10.10.2019, however, due to Covid-19 he could not surrender and hence, he was re-arrested on 28.07.2022 and since then he is behind bars. He submits that in all there are 03 accused in the present case and rest of the two accused are already on bail. He submits that the material witnesses have already

been examined. It is submitted that the petitioner has completed incarceration of more than three years, but there is no progress in the trial. He submits that the petitioner is involved in other two cases although he is on bail on those cases. He, thus, submits that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. She has submitted that the petitioner is a habitual offender. The recovered contraband i.e. 255 grams Tramadol salt falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. The petitioner was granted interim bail vide order dated 10.10.2019 but he misused the same as he did not surrender and thus, he remained at large for about 03 years and then he was arrested on 22.07.2022. On instructions, she submits that out of total 15 prosecution witnesses, 07 witnesses have been examined. She 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 initially the petitioner was arrested at the spot on 01.08.2019. However, thereafter he did not surrender after having been granted interim bail. Thus, he was re-arrested on 28.07.2022 and behind bars since then. Recovery effected in this case is of 255 grams Tramadol, which is marginally above the commercial quantity. Out of total 15 prosecution witnesses, 07 witnesses have been examined till date. The custody certificate would reflect that the petitioner has suffered incarceration of 03 years 02 months & 08 days as on 24.07.2025. It further reflects that the petitioner is involved in another case of similar nature, although he is on bail in that case. In the present case there are total 03 accused, except the petitioner, rest of the two accused are already on bail.

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.*

*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"<sup>22</sup> (also see Donald Clemmer's 'The Prison Community' published in 1940<sup>23</sup>). 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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Thus, keeping in view the arguments raised by both the sides, 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. However, if the applicant-appellant does not furnish the bail bonds within 07 days from today, then his further custody period after one week will not be counted in this case.

9. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

**25.07.2025**

*Parveen kumar*

**(RAJESH BHARDWAJ)  
JUDGE**

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