



on conducting search, 14 packets of ganja leaves were found in the plastic bag, which on weighing found to be 28.934 kgs. They failed to produce any licence regarding the possession of the same. Thus, on the registration of the FIR, both were arrested on the spot. The samples taken were sent to the FSL. On receipt of the FSL report, challan was presented and on framing of charges, trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Palwal 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 27.05.2025. The petitioner earlier approached this Court praying for grant of regular bail by way of filing CRM-M-24321-2024, however, the same was dismissed as withdrawn vide order dated 25.04.2025. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present second petition.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail to the petitioner on the basis of parity with that of the co-accused, namely, Birender. He has drawn the attention of this Court to the order dated 07.08.2025 passed in **CRM-M-9285-2025**, whereby, co-accused Birender has been granted regular bail by this Court. He submits that the petitioner is in custody since 17.01.2023. He submits that on the basis of the parity, the petitioner deserves to be granted bail as the case of the petitioner is similar to that of the said co-accused, who has already been granted bail.

4. Learned State counsel has endorsed the factum of grant of bail to the co-accused of the petitioner as stated above and has not denied that the petitioner is at par with the co-accused, namely, Birender. She has placed on



record the custody certificate of the petitioner.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 17.01.2023. Co-accused, namely, Birender is on bail and the case of the petitioner as stated is at par with him. Custody certificate of the petitioner shows that the petitioner has suffered incarceration of 02 years, 07 months & 03 days as on 19.08.2025. It further reflects that though the petitioner is involved in one more case, however, as per custody certificate he is on bail in that case.

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.

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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.’

8. This Court would refrain itself from commenting anything on the merits of the case. 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 on the basis of parity. 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

20.08.2025
sharmila

(RAJESH BHARDWAJ)
JUDGE

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