



234

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

CRM-M-12276-2025

Date of decision : 04.08.2025

Mangal Singh

....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Yajur Sharma, Advocate
the petitioner.

Ms. Simran Gorla, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.47 dated 06.03.2024 under Sections 21, 25, 29 & 61 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Gharinda, District Amritsar.
2. Succinctly the facts of the case are that the Police party while on patrolling on 06.03.2024 saw two men on activa. On seeing the police, they got perplexed and made an attempt to reverse the activa, however, the vehicle slipped and they fell down. Both were apprehended on suspicion. On asking, the driver of activa disclosed his name as Mangal Singh (present petitioner) whereas the person who was riding pillion disclosed his name as Daler Singh. They were suspected to be carrying some contraband and thus, they were given an offer to be searched. On conducting search of Daler Singh, an envelope was recovered from the coat which he was wearing and from the search of the petitioner nothing was recovered. On examination of the envelope, it was found to be containing 500 grams of heroin. They failed to produce any license



regarding possession of the same and hence, the FIR was registered and both were arrested on spot. The investigation commenced. On conclusion of investigation, challan was presented. The petitioner approached the Learned Judge, Special Court, Amritsar praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Amritsar vide order dated 07.01.2025. Aggrieved by the same, the petitioner is before this Court by way of filing of present petition for grant of bail.

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 has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that the recovery which has been effected is from the co-accused and not from the petitioner. He submits that it is evident that the recovery has been effected from the person of the co-accused but there is violation of Section 50 of NDPS Act. It is submitted that the petitioner is behind bars since date of his arrest, however, the challan was filed by the police about a year ago but till date even charges are not framed. He submits that the petitioner has no criminal antecedents as he has never been involved in other criminal cases. He submits that petitioner's right of speedy trial is defeated and thus, in 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 the counsel for the petitioner and submits that both the accused i.e. the petitioner and the co-accused, were travelling on the same activa. On conducting the search in accordance with provisions of Section 50 of NDPS Act, 500 grams of heroin was recovered from the



person of co-accused, who was riding pillion. She submits that recovery effected in the present case is of commercial quantity and thus, the provisions of Section 37 of NDPS Act, are attracted in the present case. She, on instructions, submits that challan was presented in this case on 02.09.2024, however, charges are yet to be framed. She has produced the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery was effected from the co-accused on 06.03.2024 and the same was effected from a public place, however, as submitted no independent witness was joined at the time of effecting the recovery. As per custody certificate, the petitioner has suffered an incarceration of 01 year, 04 months and 23 days as on 02.08.2025. It further shows that the petitioner has no criminal antecedents. As submitted before this Court, the challan was presented on 03.09.2024 but till date even the charges are not framed.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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.*

7. 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.

8. 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.”

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. 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.

(**RAJESH BHARDWAJ**)
JUDGE

04.08.2025

ps-I

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