

2025:PHHC:101760



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

CRM-M-20695-2025**Date of Decision: 07.08.2025**

Kamal @ Harjinder

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Aditya Sanghi, Advocate and
Mr. Kartik Mittal, Advocate
for the petitioner(s).

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.395 dated 24.08.2024 under Sections 22(c)/22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 42 of the Prisons Act, 1894 registered at Police Station Civil Lines Sirsa, District Sirsa.

2. Succinctly, facts of the case are that the present FIR pertains to the recovery of 28.81 grams of intoxicant tablets of Buprenorphine from one undertrial prisoner namely Rahul @ Bhola. During his disclosure statement, complicity of the petitioner was surfaced and thus, he has also been named as accused in the present case and has been arrested on 26.08.2024. The petitioner approached the Court of Ld. Additional Sessions Judge, Sirsa 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 18.10.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously roped in the present case. He further submits that as per case of the prosecution recovery of 28.81 grams of intoxicant tablets of Buprenorphine were recovered from the co-accused Rahul @ Bhola, who made a disclosure statement that the contraband has been supplied to him by one Deepu Solgar. He submits that the second disclosure statement of the prisoner Rahul @ Bhola was recorded on the very same day and then he changed his version wherein the petitioner has been named. It is submitted that petitioner had been falsely implicated in other cases as well but he got bail in those cases. He further submits that the petitioner was roped in the present cases on the basis of the disclosure statement, which is not admissible evidence. He submits that the petitioner has completed incarceration of 11 months and 10 days but there is no material progress in the trial. 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. He has submitted that the petitioner has supplied the contraband to the co-accused, which is a serious offence. He submits that another co-accused is brother of the petitioner. On instructions, he submits that challan has been presented but charges are yet to be framed. He submits that total recovery of 28.81 grams of Buprenorphine was effected in the present case, which falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. He has placed on record custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the name of the petitioner has surfaced in the present case in the second disclosure statement of the co-accused Rahul @ Bhola from whom the

recovery has been effected in the jail. In the facts and circumstances, the disclosure statement made at this stage is matter of evidence. The custody certificate would reflect that the petitioner has suffered incarceration of 11 months and 10 days as on 05.08.2025. It further reflects that the petitioner is involved in other five cases, however, in four of the cases he is already on bail and in fifth case he has undergone the sentence.

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 1940(23). 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.

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

07.08.2025

Parveen kumar

**(RAJESH BHARDWAJ)
JUDGE**

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