



CRM-M-4297-2025

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

CRM-M-4297-2025

Date of Decision: 08.04.2025

Sheetal Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gurpal Singh Sandhu, Advocate, for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present second petition praying for granting regular bail in case FIR No.112 dated 10.07.2021 under Sections 22, 25 of NDPS Act, 1985 (Section 29 of the NDPS Act added lateron), registered at Police Station City-2 Mansa, District Mansa.

2. Succinctly, facts of the case are that on 10.07.2021, the police party while patrolling spotted a person coming on motorcycle. A bag was hanging on the handle of the motorcycle. On seeing the police, he got perplexed, however, he was apprehended by the police party. On suspicion, the black coloured plastic sack, which was hanging on the motorcycle was searched. On conducting the search of the bag, 11 vials of Cocrex cough syrup each weighing 100 ml and 110 intoxicant tablets were recovered from him. On asking he disposed his name as Kuldeep Singh @ Rasila. The intoxicant tablets recovered were not covered under the NDPS Act, however, so far the vials of Coecrex were concerned were under the NDPS Act. He failed to produce any licence regarding the possession of the same and thus, the FIR was registered and he was arrested on spot. Samples taken



were then sent to the FSL. On registration of the FIR, the investigation commenced. During the investigation, disclosure statement of the accused was recorded and involvement of the petitioner was found. Hence, he was also arrayed as an accused and was arrested on 24.08.2024. The petitioner approached the Court of learned Judge, Special Court, Mansa 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 24.09.2024. Earlier the petitioner approached this Court by way of filing CRM-M-51797-2024, however, after hearing learned counsel for the parties, the same was allowed to dismissed as withdrawn vide order dated 21.11.2024. Hence, the petitioner has again approached this Court praying for grant of regular bail by way of filing the present second petition.

3. It has been vehemently contended by learned counsel for the petitioner that neither the petitioner was arrested on spot nor any recovery was effected from him, however, during the investigation, disclosure statement of co-accused Kuldeep Singh @ Rasila from whom the alleged recovery was effected, was recorded and name of the petitioner was surfaced and thus, he was implicated in the present case. He submits that disclosure statement of co-accused is not an admissible evidence. It is submitted that the petitioner was arrested on 24.08.2024 and since then he is behind the bars. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case of similar nature. It is submitted that prosecution has already examined its material witnesses 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 counsel for the petitioner. He has submitted that the recovery effected from the co-accused falls under the commercial quantity and hence, provisions of Section 37 of the NDPS Act are attracted. It is submitted that during the investigation, it has been found that the petitioner was the supplier of the contraband, which was recovered from the co-accused. On instructions, he submits that out of total 17 prosecution witnesses, 07 witnesses have been examined so far. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is inferred that the petitioner has been arrayed as an accused in the present case on the basis of the disclosure statement of the co-accused. The recovery of 11 vials of Cocrex cough syrup each weighing 100 ml, has been recovered from the co-accused and not from the petitioner. Out of total 17 prosecution witnesses, 07 witnesses have been examined. The custody certificate reflects that he has suffered incarceration of 07 months & 13 days as on 07.04.2025. It further reflects that the petitioner has no criminal antecedents as he has never been involved in any case under the NDPS Act.

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 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 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. Keeping in view the arguments raised by both the



sides and perusing the record, 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.

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

(RAJESH BHARDWAJ)
JUDGE

08.04.2025

sharmila

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