



Muktsar Sahib vide order dated 17.05.2024. Aggrieved by the same, the petitioner approached this Court by way of filing of CRM-M-59379-2024, however, the same was dismissed as withdrawn vide order dated 03.12.2024. Hence, the petitioner is before this Court by way of filing of present second petition for grant of bail.

3. Learned counsel for the petitioner has vehemently 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. She submits that the compliance of Section 50 of NDPS Act, was mandatory, however, there is violation of the same as well. He submits that the petitioner is behind bars since the date of his arrest, however, there is no progress in the trial. He submits that though the petitioner is involved in some more cases, however, he is not involved in any other case under the NDPS Act. He submits that 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 the recovery effected from the petitioner weighs 9.15 grams of Etizolam tablets, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act, are attracted in the present case. She submits on instructions that out of 17 prosecution witnesses, only 1 witness has been examined so far. 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 petitioner was arrested in the present case on 08.01.2024 and since then he is behind bars. As submitted before this



Court, only 01 witness out of total 17 prosecution witnesses has been examined so far. As per custody certificate, the petitioner has suffered an incarceration of 01 year, 05 months and 24 days as on 05.07.2025. It further reflects that though he is involved in 05 more cases, however, there is no other case under the NDPS Act.

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. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, 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. 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.

8. In case the bail bonds are not furnished by the petitioner during the period of 07 days from today, then his further custody period after one week will not be counted in the present case.

(**RAJESH BHARDWAJ**)
JUDGE

07.07.2025

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