



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

**CRM-M-56460-2025 (O&M)
Date of decision : 14.10.2025**

Gurgajajeet Singh @ Gargaj

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ruhani Chadha, Advocate and
Mr. Kashav Chadha, Advocate
for the petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-40394-2025

Application is allowed as prayed for.

CRM-M-56460-2025

1. Petitioner has approached this Court by way of filing the present second petition praying for grant of regular bail to him in case FIR No.188 dated 21.08.2022, under Sections 21, 25 and 29 of NDPS Act, 1985, registered at Police Station Special Task Force, STF Wing District SAS Nagar.

2. Succinctly facts of the case are that on 21.08.2022, the police received a secret information to the effect that Gurgajajeet Singh and Kanwaljit Singh @ Kanwal were involved in smuggling of heroin since long time and if the raid is conducted in the house of Gurgajajeet Singh and Kanwaljit Singh @ Kanwal, then huge quantity of heroin could be recovered. On receiving the secret information, FIR was registered and raid was conducted in the house of petitioner on 03.09.2022 and he was arrested. On his disclosure, 01 kg of heroin was recovered from the almirah of his



farm house on 05.09.2022 and 200 grams of heroin was recovered from co-accused Kanwalpreet Singh @ Kanwal. The samples taken were sent to the FSL. On receipt of the FIR, challan was presented, charges were framed and trial commenced. Petitioner approached the Court of learned Additional Sessions Judge, Amritsar praying for grant of bail. However, after hearing counsel for the parties, learned Additional Sessions Judge, declined the same vide order dated 20.02.2024. Thereafter, petitioner approached this Court by way of filing CRM-M-2390-2025 which was allowed to be dismissed as withdrawn vide order dated 28.04.2025. Hence, petitioner is before this Court by way of filing the present second petition.

3. It has been contended by counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that the FIR had been registered on 21.08.2022 on the basis of secret information whereas, the petitioner was shown to have been arrested on 03.09.2022 i.e. after 12 days. He submits that the recovery memo is of dated 05.09.2022 which indicates that the alleged recovery has been planted upon the petitioner in a premeditated manner. He submits that there is violation of provision of Section 42 and Section 50 of the NDPS Act. He further submits that even otherwise, petitioner has suffered incarceration of more than 03 years however, till date, there is no substantial progress in the trial. He submits that co-accused, Kanwalpreet Singh @ Kanwal has already been granted concession of regular bail by this Court vide order dated 20.01.2023 passed in CRM-M-58220-2022. He submits that though the petitioner is involved in 05 other cases, however, in 01 case, he has been acquitted and in rest of the cases, he has been enlarged on bail. He thus, submits that in the overall facts and circumstances of the case, petitioner deserves to be granted bail.



4. Status report by way of affidavit of Mr. Kapil Kaushal, PPS, Deputy Superintendent of Police, Anti-Narcotics Task Force, Border Range Amritsar, filed by learned State counsel is taken on record. He has opposed the submissions made by counsel for the petitioner. He submits that the recovery effected from the petitioner is 01 kg of heroin which is a commercial quantity thus, provisions of Section 37 of the NDPS Act are attracted. He, on instructions, has submitted that out of 15 prosecution witnesses, 04 witness could be examined so far. He has placed on record custody certificate of the petitioner which shows that petitioner has undergone actual sentence of 03 years, 01 month and 04 days as on 12.10.2025. It further reflects that though the petitioner is involved in 05 other cases.

5. 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 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.'

6. After hearing counsel for the parties and perusing the record, it is inferred that the FIR in the present case was recorded on 21.08.2022 whereas, the petitioner was arrested on 03.09.2022. The recovery memo is of dated 05.09.2022. Custody certificate produced by learned State counsel shows that petitioner has undergone actual sentence of 03 years 01 month and 04 days as on 12.10.2025. It further reflects that though the petitioner is involved in 05 other cases. As submitted, out of 15 prosecution witnesses, only 04 witnesses have been examined so far. Needless to say that speedy trial is the fundamental right of every accused.

7. 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.”

8. The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in *Javed gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024*, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

9. 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. 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.

10. If the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in the present case.

14.10.2025
m.sharma

(**RAJESH BHARDWAJ**)
JUDGE

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