



CRM-M-26696-2025

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

CRM-M-26696-2025

Date of Decision: 22.05.2025

Deepak Kumar @ Depu Petitioner
Versus
State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Amaninder Preet, 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.77 dated 23.07.2022 under Section 22 of NDPS Act, 1985 (charges framed under Sections 22 and 29 of the NDPS Act) registered at Police Station Sandaur, District Malerkotla

2. Succinctly the facts of the case are that on 23.07.2022, the police party while on patrolling, received a secret information to the effect that Deepak Kumar @ Deepu (petitioner), Varinder Singh and Jora Singh were indulged in the business of selling intoxicants and they were bringing the intoxicant bottles and tablets in large quantity from outside in silver colour Alto car bearing registration No.DL- 9-CN-4095 and they would supply the same in the nearby villages. It was informed that in case of barricading, they could be arrested along with the contraband. On finding the information reliable, the barricading was laid and the raiding team reached the place disclosed. Thereafter, a car as disclosed was seen coming in which 03 persons were sitting. The same was stopped and inmates of the car, on



asking, disclosed their names as Deepak Kumar @ Deepu, Varinder Singh and Jora Singh. The person sitting on the side seat was Deepak Kumar (petitioner), who was holding a plastic bag and the person sitting on the rear seat was Varinder Singh and Jora Singh was driving the car. They were suspected to be carrying some contraband and thus, the search was carried out. On carrying the search of plastic bag being carried by Deepak, recovery of 11 vials of Omerex 100 ML, 21 vials make Maverex 100 ML, 50 strips of intoxicant tablets make Wallace Carisoma were effected. All the three persons failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and they were arrested on the spot. The samples taken were sent to the FSL. On completion of the investigation, the challan was presented and on framing of the charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Sangrur praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Sangrur declined the petition filed by the petitioner vide order dated 14.11.2022. Thereafter the petitioner earlier approached this Court praying for the grant of bail by way of filing CRM-M- 57774-2023, however the same was allowed to be dismissed as withdrawn vide order dated 11.03.2024. Hence being aggrieved, the petitioner is before this Court by way of filing the present second petition praying for the grant of regular bail.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail to the petitioner on the basis of parity with that of the co-accused, namely, Jora Singh and Varinder Singh. He has drawn the attention of this Court to the orders dated 09.11.2023 and 29.04.2025 passed in CRM-



M-54825-2023 and **CRM-M-58307-2024**, whereby, co-accused Varinder Singh and Jora Singh have been granted regular bail by this Court. He has submitted that the case of the petitioner is at par with the said co-accused. He submits that the petitioner is in custody since 23.07.2022. He submits that on the basis of the parity, the petitioner deserves to be granted bail as the case of the petitioner is similar to that of the said co-accused, who have already been granted bail.

4. Learned State counsel has endorsed the factum of grant of bail to the co-accused of the petitioner as stated above and has not denied that the petitioner is at par with the co-accused, namely, Jora Singh and Varinder Singh. However, he submits that the recovered contraband falls under the commercial quantity, and thus provisions of Section 37 of NDPS Act, are attracted. He, on instructions, has submitted that out of total 17 prosecution witnesses, 09 witnesses have been given up and no witness has been examined so far.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 23.07.2022. Co-accused, namely, Jora Singh and Varinder Singh are on bail and the case of the petitioner as stated is at par with them. Out of total 17 prosecution witnesses, 09 witnesses have been given up and no witness has been examined. As stated before this Court the petitioner is behind bars since the date of his arrest i.e. 23.07.2022. Further it was apprised to the Court, the petitioner is involved in one more case of the similar nature, however, he is on bail in that case. Needless to say that speedy trial is the fundamental right of every accused.



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 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. This Court would refrain itself from commenting anything on the merits of the case. 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 on the basis of parity. 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.

(RAJESH BHARDWAJ)
JUDGE

22.05.2025

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