

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

CRM-M-14551-2024
Date of decision : 14.10.2025

Ajay Singh @ Kala

....Petitioner

versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Prateek Pandit, Advocate for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present third petition has been filed for grant of regular bail in case FIR No.269 dated 07.10.2022, under Sections 21, 22 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Succinctly the facts of the case are that the Police party while on patrolling on 07.10.2022, saw one pulsar motorcycle on which two persons were travelling. On seeing the police, the driver of the motorcycle applied breaks and tried to turn back the same, then the woman who was sitting pillion on the motorcycle, threw one polythene bag into the bushes on the road side. However, they could not turn back and fell down. On suspicion, they were apprehended. On asking, driver of the motorcyle disclosed his name as Ajay Singh @ Kala(present petitioner), whereas woman sitting as pillion disclosed her name to be Kulwant Kaur @ Kauri. They were suspected to be carrying some contraband in the polythene bag being thrown by them and thus, the same was searched. On conducting the search, 1000 intoxicant tablets and 10 grams of heroin were recovered from the same. They failed to produce any license regarding possession of the same and hence, the FIR was registered and they were arrested on

spot. The investigation commenced. The samples taken were sent to the FSL. As per the FSL report, the intoxicant tablets were found to be containing 123 grams of Alprazolam. On completion of investigation, challan was presented. On framing of charges, the trial Court commenced the trial. The petitioner approached the Learned Judge, Special Court, Kapurthala praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Kapurthala vide order dated 23.01.2023. Aggrieved by the same, the petitioner earlier approached this Court twice by way of filing of CRM-M-12144-2023 and CRM-M-58178-2023, however, same were dismissed as withdrawn vide orders dated 24.08.2023 and 24.11.2023, respectively, Hence, the petitioner is before this Court by way of filing of present third petition for grant of bail. However, it is apposite to mention here that petitioner is on interim bail, granted by this Court vide order dated 11.12.2024.

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. He submits that the compliance of Section 50 of NDPS Act, was mandatory in conducting the search, however, there is violation of the same as well. He submits that the trial has not been concluded till date and thus, his right of speedy trial is defeated. He submits that though the petitioner is involved in 04 other cases, however, in 03 of them he is on bail. He thus, 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 on due compliance of Section 50 of NDPS Act, recovery was effected. He submits that recovery of 1000 tablets weighing 123 grams of Alprazolam, is a commercial quantity and thus, provisions of Section 37 of NDPS Act, is attracted in the present case. He, on instructions, has submitted that out of total 15 prosecution witnesses only 06 witnesses have been examined. He has produced the custody certificate of the petitioner on record.

5. After hearing counsel for the parties and perusing the record, it is inferred that as per custody certificate, the petitioner has suffered an incarceration of 02 years, 02 months and 08 days as on 18.12.2024 and till now the petitioner is on interim bail which was earlier granted by this Court vide order dated 11.12.2024. It further reflects that though the petitioner is involved in 04 other cases, however, in 03 of them, he is on bail. As per Schedule of NDPS Act, the contraband recovered i.e. 123 grams of Alprazolam is a commercial quantity.

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.

8. 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.”

9. 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.

10. 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, interim bail granted to the petitioner vide order dated 11.12.2024 is made absolute and he is ordered to be released on bail on his already furnished bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate at the time of his release on interim bail. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

14.10.2025

ps-I

(**RAJESH BHARDWAJ**)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No