



CRM-M-8838-2025

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

CRM-M-8838-2025

Date of decision : 12.08.2025

Hitesh Mehra @ Ishu**....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Satbir Singh Gill, Advocate
the petitioner.

Ms. Simran Gorla, A.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed for grant of regular bail in case FIR No.47 dated 21.07.2024 under Sections 18/27-A/29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Verka, District Amritsar.
2. Succinctly the facts of the case are that the Police party while on patrolling on 21.07.2024 saw a Hindu person was coming on his Activa carrying a blue kit on his back. On seeing the police, he got perplexed and tried to turn the activa, however, the on suspicion he was stopped. On asking, he disclosed his name as Hitesh Mehra @ Ishu (present petitioner). He was suspected to be carrying some contraband and thus, he was given an offer to be searched. On recording the consent memo, the search was conducted in presence of Mr. Kamaljeet Singh, PPS a Gazatted Officer. On conducting the search, 03 Kg 120 Grams of opium was recovered from the kit bag being carried by him. He failed to produce any license regarding possession of the same and hence, the FIR was registered and he was arrested on spot. The investigation commenced.



Samples taken were sent to FSL, On receipt of FSL report, challan was presented and on framing of charges trial commenced. The petitioner approached the Learned Judge, Special Court, Amritsar praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Amritsar vide order dated 03.10.2024 Aggrieved by the same, the petitioner earlier approached this Court by way of filing of CRM-M-57418-2024 which was dismissed as withdrawn on 22.11.2024. 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 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 there is violation of Section 50 of NDPS Act in conducting the search of the petitioner. It is submitted that as per the case of prosecution, consent memo was prepared at the place of recovery, however, the same contains the details of the FIR which in itself shows that the documents have been manipulated and recovery has been planted upon the petitioner. He submits that the petitioner has no criminal antecedents as he has never been involved in other criminal cases. He submits that out of 03 accused, involved in the present case, rest 02 accused are already on bail. He submits that though the petitioner has suffered an incarceration of more than 01 year, however, there is no progress in the trial. He submits that petitioner's right of speedy trial is defeated 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 the counsel for the petitioner and submits that



petitioner was arrested on spot and on due compliance of Section 50 of NDPS Act, the recovery of 3 kg 120 grams of opium was recovered. She submits that recovery effected in the present case is of commercial quantity and thus, the provisions of Section 37 of NDPS Act, are attracted in the present case. She, on instructions, submits that out of total 24 prosecution witnesses, none 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 alleged recovery was effected from the petitioner is of 03 Kg 120 Grams of opium, while he was coming on his activa. As per custody certificate, the petitioner has suffered an incarceration of 01 year and 11 days as on 11.08.2025. It further shows that the petitioner has no criminal antecedents. As submitted before this Court, out of 03 accused involved in the present case, rest 02 accused are already on bail. The arguments raised by the counsel for the petitioner regarding mentioning of FIR on the consent memo are debatable and the same is within the domain of the trial Court.

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. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of 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.

12.08.2025

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(RAJESH BHARDWAJ)
JUDGE

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