



CRM-M-2150-2025

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

CRM-M-2150-2025

Date of decision : 03.04.2025

Gurpreet Singh @ Gopi

....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Krishan Singh Dadwal, Advocate for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present is the third petition filed by the petitioner for grant of regular bail in case FIR No.80 dated 19.04.2019, under Sections 20 & 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Tanda, District Hoshiarpur.

2. Succinctly the facts of the case are that the Police party while on patrolling on 19.04.2019 saw a Maruti Zen car with registration Number PB-08-AD-2405 coming from the side of village Baghiari. It was signalled to stop. On seeing the police, the driver of the car threw a glazed envelope from right side of the car in the fields abutting the road. Thereafter, the young boy tried to escape, however, he was over powered by the Police and on asking, he disclosed his name as Gurpreet Singh @ Gopi. On asking as to why he tried to escape, he disclosed that he deals in selling intoxicant substance to his customers and on seeing the police, he got afraid. The glazed envelope thrown by him was searched and on conducting the search, 117 grams intoxicant powder and 1050 grams hemp (*Charas*) was found. He failed to produce any license regarding possession of the same and hence the FIR was registered and the



petitioner was arrested on spot. The investigation commenced and samples taken from the contraband were sent to FSL. After receiving the FSL report, challan presented and on framing of charges, the trial Court proceeded with the trial. The petitioner approached the Learned Judge, Special Court, Hoshiarpur praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Hoshiarpur vide order dated 05.02.2024. Thereafter the petitioner earlier approached this Court by way of filing of CRM-M-34543-2022 and CRM-M-60582-2024, however, the same were dismissed as withdrawn vide orders dated 05.08.2022 and 13.12.2024, respectively. Aggrieved by the same, the petitioner is before this Court by way of filing of present third 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 was effected from a public place, however, no independent witness was joined by the investigating agency. He submits that the alleged recovery was effected from a glazed paper which was thrown by the petitioner, hence, there is every probability that the recovery was planted upon the petitioner. He submits that the petitioner has been implicated in this case as he is earlier involved in multiple cases. It is submitted that the petitioner is behind bars from last more than 1 ½ years, however, there is no progress in the trial. He submits that though petitioner is involved in other cases, however, in most of the cases he is on bail. 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 02



contrabands i.e. Alprazolam and Hemp (*Charas*) were recovered from the petitioner. He submits that as per FSL report, Alprazolam was weighing 117 grams and hemp (*charas*) was weighing 1050 grams, which are commercial in nature and thus, provisions of Section 37 of the NDPS Act, are attracted. He submits that the petitioner was granted interim bail, however, he was declared proclaimed offender on 24.07.2023 and thereafter, he was arrested on 17.08.2023. He submits that out of total 08 prosecution witnesses only 03 have been examined so far. He has produced the custody certificate of the petitioner on record. He thus, submits that in the facts and circumstances of the case, the petitioner does not deserve the concession of bail.

5. After hearing counsel for the parties and perusing the record, it is inferred that the petitioner is behind bars since the date of his arrest. The custody certificate filed would show that he has completed an incarceration of 01 year, 07 months and 22 days as on 02.04.2025. It further reflects that the petitioner is involved in other cases as well, however, in most of the cases he is on bail. Even otherwise, if the petitioner is involved in other cases, the same cannot be a ground for non-consideration of his bail in the present case especially when after having suffered an incarceration of 01 year, 07 month and 22 days only 03 witnesses have been examined by the prosecution.

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. 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

03.04.2025

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