



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

CRM-M-19688-2025

Date of Decision: 07.07.2025

Sushil Kumar @ Sheelu

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Nikhil Mittal, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

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.700 dated 25.12.2023 under Sections 22(c) of NDPS Act, 1985 (Section 29 of the NDPS Act added lateron), registered at Police Station Ambala City, District Ambala.

2. Succinctly, facts of the case are that on 25.12.2023, the police received a secret information to the effect that Ashish Malhotra was involved in business of selling intoxicating capsules and he was sitting in his vehicle bearing No.HR-01-AW-8406 near old Shiv Temple for selling the intoxicating capsules. In case of raid, he could be arrested alongwith the contraband. On receiving the information, the raiding team was constituted and raiding party reached at the place disclosed where a person was found sitting in a car. On enquiry, he revealed his name as Ashish Malhotra. He was suspected to be carrying some intoxicating capsules and thus, was given offer for search. On conducting search of the pocket of his blazer worn by him, total 528 intoxicating capsules weighing 288.26 grams of Tramadol.



recovered. He failed to produce any licence regarding possession of the same and thus, the FIR was registered and he was arrested on the spot. Samples taken were sent to the FSL. On registration of the FIR, the investigation commenced. During the investigation, disclosure statement of Ashish Malhotra was recorded, wherein, he disclosed about the involvement of the petitioner and thus, the petitioner was also arrayed as an accused and was arrested on 18.01.2024. The petitioner approached the Court of learned Additional Sessions Judge, Ambala praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 11.02.2025. Thereafter, the petitioner approached this Court for grant of regular bail by way of filing CRM-M-26169-2024, however, the same was allowed to be dismissed as withdrawn vide order dated 06.08.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present second petition.

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, Ashish Malhotra. He has drawn the attention of this Court to the order dated 01.04.2025 passed in **CRM-M-31241-2024**, whereby, co-accused Ashish Malhotra has been granted regular bail by this Court. He has submitted that recovery of contraband was effected from co-accused Ashish Malhotra, whereas, name of the petitioner has been surfaced on the disclosure statement made by Ashish Malhotra and thus, the case of the petitioner is on better footing than the said co-accused. He submits that the petitioner is in custody since 18.01.2024. He submits that on the basis of the



parity, the petitioner deserves to be 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, Ashish Malhotra. He has submitted that out of total 19 prosecution witnesses, 04 witnesses have been examined. He has placed on record the custody certificate of the petitioner and has submitted that the petitioner is involved in one more case.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 18.01.2024 Co-accused, namely, Ashish Malhotra is on bail and the case of the petitioner as stated is at par with him. Out of total 19 prosecution witnesses, 04 witnesses have been examined. As per custody certificate, the petitioner has suffered incarceration of 01 year 05 months & 15 days as on 04.07.2025. It further reflects that the petitioner is involved in one more case.

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. 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.

8. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will



CRM-M-19688-2025

-5-

not be counted in the present case after one week.

9. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.07.2025

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Whether Speaking/Reasoned :

Whether Reportable :

**(RAJESH BHARDWAJ)
JUDGE**

Yes/No

Yes/No