



CRM-M-47126-2025

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

CRM-M-47126-2025 (O&M)
Date of Decision: 01.09.2025

Budhu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Mohit Sharma, Advocate, for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

CRM-33784-2025

Allowed as prayed for.

Main case

1. Petitioner has approached by way of filing the present petition praying for grant of regular bail in case FIR No.114 dated 05.07.2024 under Sections 22, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Garshankar, District Hoshiarpur.
2. Succinctly, facts of the case are that on 05.07.2024, the police party while on patrolling saw a person coming on foot, who on seeing the police, got perplexed and threw a transparent polythene bag from his pocket of the capry. However, he was apprehended. On asking, he disclosed his name as Budhu (petitioner). He was suspected to be carrying some contraband. Thus, the polythene bag thrown by him was searched. On conducting the search of the polythene bag, 12 grams of narcotic substance was found. He failed to produce the licence regarding the possession of the same and thus, on the registration of the FIR, he was arrested on the spot.



The investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Court of learned Judge Special Court, Hoshiarpur 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 22.10.2024. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He has submitted that the alleged recovery has been effected from a public place, however, no independent witness has been joined. He submits that there is violation of Section 50 of NDPS Act. He submits that no specification of the alleged contraband recovered has been given by the Investigating Agency and thus, it is apparent that the alleged recovery has been planted on the petitioner. He submits that though the petitioner is involved in other cases, however, he is on bail in those cases. He, thus, submits that in the facts and circumstances of the case, the petitioner deserves the concession of regular bail.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that recovery of 12 grams of intoxicant powder was effected from the petitioner, which on receipt of the FSL report, was found to be containing Etizolam, which admittedly a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted. On instructions, he has submitted that out of 09 prosecution witnesses, 03 witnesses have been examined and 03



witnesses have been given up. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since 05.07.2024. As submitted by learned State counsel majority of the cases already stands examined and only three witnesses remain to be examined. Custody certificate of the petitioner would show that the petitioner has suffered incarceration of 01 year, 01 month & 23 days as on 29.08.2025. It further reveals that the petitioner is involved in three more cases, however, in one case he has completed sentence and in one case he is on bail.

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 veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, 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.

8. 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. 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



not be counted in the present case after one week.

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

(RAJESH BHARDWAJ)
JUDGE

01.09.2025

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