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CRM-M-60076-2023 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-60076-2023 (O&M)
Date of decision: July 24, 2025**

Rajeev Kumar @ Raju

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Arnav Ghai, Advocate for the petitioner.

Mr. Gurpartap S. Bhullar, AAG Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of regular bail to the petitioner in case bearing FIR No.69 dated 18.06.2023, registered for the offences punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Section 29 of the NDPS Act added later on), at Police Station Julkan, Patiala.
2. The gravamen of the FIR in question is that the petitioner is an accused of being involved in FIR pertaining to NDPS Act involving 1980 intoxicant tablets, i.e. Diphenoxylate Hydrochloride & Atropine Sulfate Tablets IP Lomotil.
3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 18.06.2023. Learned counsel for the petitioner has further submitted that the mandatory provisions of the NDPS Act have not been complied with, and thus, the prosecution case suffers from inherent defects.

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Learned counsel for the petitioner has iterated that the trial is procrastinating and the folly thereof cannot be fastened upon the petitioner. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 02 years. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. Learned State counsel has further submitted that the instant bail plea is barred by the rigors of Section 37 of the NDPS Act, and thus, the same ought to be dismissed. Learned State counsel seeks to place on record custody certificate dated 23.07.2025 in Court, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 18.06.2023 whereinafter investigation was carried out and challan was presented on 29.09.2023. Total 24 prosecution witnesses have been cited and only 03 have been examined till date. The rival contentions raised at Bar give rise to debatable issues shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

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6.1. A perusal of the *zimni* orders passed by the trial Court, brought forth on record by the petitioner, indicates that the trial is procrastinating and folly thereof cannot be fastened upon the petitioner. As per custody certificate dated 23.07.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of more than 02 years and 01 month & is not shown to be involved in any other case/ FIR. In this view of the matter, the rigor imposed under Section 37 of the NDPS Act stands diluted in light of the Article 21 of the Constitution of India. A profitable reference in this regard is being made to a judgment passed by the Hon'ble Supreme Court in *Criminal Appeal No.2787 of 2024* titled as *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another*, as well as the dicta passed by this Court in CRM-M No.64074 of 2024 titled *Kulwinder v. State of Punjab*, decided on 10.1.2025 (neutral citation no.2025:PHHC:002695).

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.

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- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned trial Court, to the effect that he has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after his being enlarged on bail in the present FIR, on the basis of his affidavit or otherwise, the State is mandated to move, forthwith, for cancellation of his bail which plea, but of course, shall be ratiocinated upon merits thereof.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

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10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

July 24, 2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No