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

**CRM-M No.44484 of 2025
Date of Decision: 21.08.2025**

Harjeet @ Kaka**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********

Present :- Mr. Rajender Kumar, Advocate
for the petitioner.

Ms. Diya Sodhi, Sr. DAG, Haryana.

***********RAJESH BHARDWAJ, J. (Oral)**

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.62, dated 07.05.2023, under Sections 22(c)/29 of NDPS Act, 1985, registered at Police Station Siwan, District Kaithal.

2. Succinctly the facts of the case are that the police party, while on patrolling on 07.05.2023, received a secret information to the effect that Harjeet (petitioner) son of Sai Ram Chander was running a Karyana shop in his residential house, where he was selling the prohibited intoxicant medicines along with the material of Karyana. It was informed that he was keeping huge quantity of these intoxicant medicines and if raid is conducted, the contraband could be recovered. On receiving the secret information, the raiding party was constituted and the karyana shop, as disclosed in the secret information, was raided. A person was found at



the shop, who along with his pithu bag trying to go inside of his house, however, was apprehended. On asking, he disclosed his name to be Harjeet @ Kaka. He was suspected to be carrying some contraband and thus the search of pithu bag was conducted. On conducting the search, 180 strips of Tramadol Prolonged Trakem-SR 100 tablets IP, 100 mg, each strip containing 10 tablets, total 1800 tablets; 25 strips of Tramadol Prolonged Release Tablets IP Tramwel SR 10, each strip containing 10 tablets, total 250 tablets; 70 strips of Alprazolam Tablets IP, 05 grams Alzocel-0.5 mg, each strip contains 10 tablets, total 700 tablets; 37 strips of Alprazolam tablets IP 05 mg Alprasafe 0.5 each, strip contains 60 tablets, total 2220 tablets; 16 strips of Diphenoxylate Hydrochloride Atropine Sulphate Tablets IP Lomotil total 960 tablets and thus, a total of 5930 intoxicant tablets were recovered. He failed to produce any licence regarding the conscious possession of the same, thus, the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. The samples taken were sent to the FSL. On receipt of the FSL report, the contraband recovered were found to be containing 380.5 grams of Tramadol, 146 grams of Alprazolam and 55.68 grams of Diphenoxylate Hydrochloride. The challan was presented and on framing of the charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Kaithal praying for grant of bail, however, after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Kaithal declined the petition filed by the petitioner vide order dated 13.12.2023. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M-31762-2024 praying for the grant of bail, however the same was allowed to be



dismissed as withdrawn vide order dated 11.07.2024. Hence being aggrieved, the petitioner is again before this Court praying for the grant of bail by way of filing the present second petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that the FIR was registered on the basis of secret information, however there is a violation of mandatory provisions of Section 42 of NDPS Act. He has submitted that even otherwise, there is a violation of mandatory provisions of Section 50 of NDPS Act as well in conducting the search. He has submitted that the petitioner is a handicapped person as one of his leg is already amputated, however recovery has been falsely planted upon the petitioner. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 07.05.2023, however there is no progress in the trial and thus, the right of speedy trial has been defeated. To buttress his arguments, learned counsel for the petitioner has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case except the present case. He has submitted that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. She has submitted that on specific secret information, the raid was conducted where the petitioner was arrested on the spot. She has submitted that the recovery of 380.5 grams of Tramadol, 146 grams of Alprazolam and 55.68 grams of Diphenoxylate Hydrochloride was effected from the petitioner, which is commercial in nature, and thus, provisions of Section 37 of NDPS Act are



attracted in this case. She, on instructions, has submitted that out of 16 prosecution witnesses, only one witness has been examined till date. She has placed on record custody certificate of the petitioner today in the Court and the same is taken on record.

5. Heard.

6 On hearing learned counsel for the parties and perusing the record, it is deciphered that the FIR in the present case was registered on the basis of secret information. The petitioner was arrested on 07.05.2023. It is an admitted fact that the petitioner is a handicapped person. The recovery effected from the petitioner is a commercial quantity. Custody certificate produced would show that the petitioner has completed incarceration of 02 years, 03 months and 14 days as on 20.08.2025. It further reflects that the petitioner is not involved in any other case. Out of 16 prosecution witnesses, only 01 witness has been examined till date. Needless to say that every accused has a fundamental right of speedy trial.

7. 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.”*

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. 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. The trial of the case will take sufficiently long time.

10. 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. Accordingly, the present petition is allowed. 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.

(RAJESH BHARDWAJ)
JUDGE

21.08.2025

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