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

CRM-M-16197-2026

Date of Decision: 13.05.2026

Kapil Kumar @ Kapil

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manpreet Singh Sidhu, Advocate,
for the petitioner.

Mr.Raj Karan Singh, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.54 dated 30.03.2024, registered under Sections 21, 21-C & 29 of NDPS Act, 1985, at Police Station Special Task Force (STF), District SAS Nagar.

2. Succinctly, facts of the case are that on 30.03.2024, the police party while on patrolling received a secret information to the effect that Kapil Kumar @ Kapil (petitioner) and Varun Kumar @ Veenu are indulged in selling heroin and today both of them are going to supply heroin near funeral ground, Mohalla Shiv Puri area on their scooter and are waiting for their customers. It was informed that in case of raid, they could be arrested alongwith the contraband. On receiving the information, raid was conducted at the place disclosed and 1.950 kgs of intoxicate power was recovered from the conscious possession of petitioner, namely, Kapil Kumar @ Kapil alongwith co-accused Varun Kumar @ Veenu. They failed to produce any license regarding possession of the same and hence, he was arrested on the spot. The FIR was registered and investigation commenced. Samples taken were sent to the FSL. On completion of the investigation, challan was



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presented and on framing of charges, trial commenced. Petitioner approached the Court of learned Judge, Special Court, Ludhiana, praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides vide order dated 23.01.2025. Earlier also the petitioner approached this Court by way of filing CRM-M-56382-2025, however, the same was dismissed as not pressed vide order dated 04.11.2025. Aggrieved by the same, the petitioner is before this Court by way of filing of present second petition for grant of bail.

3. It has been vehemently contended by learned Senior Counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that the FIR in the present case was lodged on the basis of secret information, but there is violation of Section 42 of the NDPS Act. He submits that the alleged recovery was effected from a public place, however, no independent witness has been joined and thus, there is a violation of Section 50 of the NDPS Act as well while conducting search. He contends that the conscious possession in itself is not proved. He has submitted that the petitioner is not the owner of the scooter from which the alleged recovery was effected. To buttress his arguments, he submits that the petitioner has no criminal antecedents, as he has never been involved in any other case. He submits that the petitioner is behind the bars from the last more than two years. He, thus, submits that in the overall facts and circumstances of the present case, the petitioner deserves to be granted bail.

4. *Per contra*, learned State counsel has vehemently controverted the submissions made by counsel for the petitioner. It is submitted that the



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petitioner was specifically named in the secret information. He submits that the petitioner was the rider of the scooter from which 1.950 grams of heroin was recovered, which falls under the commercial quantity and thus, the provisions of Section 37 of the NDPS Act, are attracted. On instructions, he has submitted that out of total 18 prosecution witnesses, 06 witnesses remain to be examined. 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 as per the case of the prosecution, FIR in the present case was lodged on the basis of secret information. The petitioner was arrested on 30.03.2024. Violation of Sections 42 and 50 of NDPS Act has been vehemently contended before this Court. The alleged recovery has been effected from a public place. The custody certificate would show that the petitioner has suffered incarceration of 02 years, 01 month and 09 days as on 12.05.2026. It further shows that the petitioner has no criminal antecedents. Out of total 18 prosecution witnesses, 06 witnesses remain to be examined.

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. 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



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ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

(RAJESH BHARDWAJ)
JUDGE

13.05.2026

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