



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

CRM-M-67036-2025

Date of decision : 24.03.2026

Kulwinder Singh @ Goku

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. K.D. Sachdeva, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present third petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.137 dated 13.07.2023, under Section 22(C) of the NDPS Act, 1985, registered at Police Station Talwandi Sabo, District Bathinda, Punjab.

2. Succinctly, facts of the case are that on 13.07.2023, the police party, in connection with checking of narcotic substances, was present at Talwandi Sabo-Raman Bypass T-Point Mata Sahib Kaur College about 300 sq. yards from Dashmesh Public School Drain Bridge, where at about 04:30 AM, a Toyota Corolla Car No.DL1CJ-4986 Colour Silver was seen coming but the person sitting on driver seat tried to turn back from the *naka*. However, the said vehicle was stopped and the persons were apprehended. On asking, the driver of the said vehicle disclosed his name as Kulwinder Singh @ Ghoku (present petitioner) and the person sitting at back seat, disclosed his name as Kulwinder Singh @ Motu. They were suspected to be carrying some contraband and hence, the search was conducted. On conducting the search of the vehicle, one plastic sack



containing 2000 strips of intoxicating tablets, containing 10 tablets per strip i.e. 20000 tablets labelled as Tramadol Radol-100 SR, was recovered. They failed to produce any license regarding possession of the same and thus, the FIR was registered, investigation commenced and the petitioner was arrested on the spot. On completion of the investigation, challan was presented and charges were framed. Petitioner approached the Court of learned Judge, Special Court, Bathinda, praying for grant of regular bail. However, after hearing counsel for the parties, the same was declined vide order dated 26.04.2024. Being aggrieved, earlier the petitioner has approached this Court twice by way of filing CRM-M-15726-2025 and CRM-M-34200-2025, however, the same were dismissed vide orders dated 04.04.2025 and 09.07.2025, respectively. Hence, the petitioner is before this Court by way of filing the present third petition.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He has contended that the alleged recovery was effected from a public place but no independent witness was joined. He has contended that the alleged recovery of 20,000 tablets was effected from a Car and hence, conscious possession has not been proved. He has contended that there is violation of provisions of Section 50 of the NDPS Act. To buttress his arguments, learned counsel has contended that the petitioner has no criminal antecedents as he has not been involved in any other case. He has contended that the petitioner is behind the bars from last more than 02 years but till date, trial has not been concluded and thus, right of speedy trial is defeated in the present case. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted regular



bail.

4. Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner was arrested on the spot and from the vehicle in which he along with co-accused was travelling, 20,000 tablets containing Tramadol were recovered and on weighing, the same were found to be 6.980 kgs of Tramadol, which is a commercial quantity, thus, the provisions of Section 37 of the NDPS Act are attracted in this case. On instructions, he submits that out of 15 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 the petitioner has been arrested on 13.07.2023. The alleged recovery was effected from the public place. As contended before this Court, there is violation of Section 50 of the NDPS Act. Custody certificate filed by the State would show that the petitioner has undergone incarceration of 02 years, 01 month and 26 days as on 22.03.2026. It further reflects that the petitioner is not involved in any other case. As submitted, out of 15 prosecution witnesses, 06 witnesses are yet to be examined. Needless to say that every accused has the fundamental right of speedy trial.

6. 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.”

7. The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in **Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024**, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

8. 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 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.'*

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

24.03.2026
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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