



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4143-2025
DECIDED ON: 17.02.2025

RAVINDER SINGH ALIAS RAJU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked for the second time under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No.09, dated 19.01.2023, under Sections 15/22 of NDPS Act, registered at Police Station Mahilpur, District Hoshiarpur, Punjab.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Jai Hind”, Head Officer, PS Mehtiana, Today I, ASI including ASI Kulwant Singh 73 HPR, ASI Jasbir Singh 285 HPR, HC Amarjit Singh 407/HPR, and PHG Surjit Singh 26988 along with a laptop printer on our vehicle was present on bridge • canal Panjora, then a motorcycle came from the village Ispur towards canal-bridge, who was signalled to stop with a torch, the motorcyclist, upon seeing the police party, immediately started turning the motorcycle

back, the motorcyclists were apprehended with the help of fellow employees, and was controlled by I, ASI and after checking the motorcycle, its registration number was found as No. PB-10-CR-7988 and then the apprehended persons were asked for the name, the motorcyclist (driver) gave his name as Amritpal Singh son of Narinder Singh, resident of Police Station, Banga District, SBS Nagar, and the youth sitting behind said his name as Ranjit Singh, Son of Balveer Singh, resident of Mahal Gola Police Station, Banga District, SBS Nagar, and the young man sitting at the back revealed his name as Gurpartap Singh, son of Baljit Singh, resident of Jassowal Police Station, Mahilpur District, Hoshiarpur, to whom, I ASI, identified himself as ASI Vijay Kumar, posted at Police Station Mehtiana. Informed that I, am wearing a uniform, with my name plate attached, and asked the three apprehended persons that you are suspected of having any narcotic substance, that you and your motorcycle are to be searched, but you have the legal right to get searched yourself and your motorcycle in the presence of a Magistrate or a gazetted officer and arrangements can be made. Similarly, I, ASI gave separate notices to Amritpal Singh, Ranjit Singh, Gurpratap Singh under section 50 NDPS ACT. To which, they said that we trust that you can search us, on which separate individual consents of accused Amritpal Singh, Ranjit Singh, Gurpratap Singh were prepared and upon it Amritpal Singh, Ranjit Singh Gurpratap Singh gave their consent and signed it and witnesses gave their testimony. Before searching accused Amritpal Singh, Ranjit Singh, Gurpratap Singh, it was tried to make Public, a party to said search, but each of them expressed their own compulsion and no individual was included in the police party. In such attendance, firstly, motorcycle driver, Amritpal Singh, was searched and a black waxed envelope was found in the right pocket of his pajama, which was opened and checked, and 100 capsules brand PROXION in blue color were recovered from it. After

putting the parcel in the left pocket of the envelope and sealing it with his seal VK. Then, Ranjit Singh son of Balveer Singh, resident of Mahal Gola Police Station, Banga District, SBS Nagar, was searched and a weighed envelope, black in color was found from his right of lower was which was opened and checked and found 15 injections without labels in it. In the same wax envelope, he put it in a plastic box and prepared a parcel and sealed it with his seal letter/VK. Gurpartap Singh was searched and in his left side pocket of lower worn by him, it was found 315 grams of narcotic which was put in plastic box and parcel was sealed by stamp VK. The motorcycle was also seized as evidence. Therefore, in possession of 100 capsules of PROXYVON by Amritpal, Ranjit Singh son of Balwant Singh resident in possession of 15 injections without label and Gurpartap Singh son of Baljit Singh in his possession of 315 grams of narcotic substance has committed an offence under sections 22-61-85 of NDPS Act, of whose ruqa has been sent to the police station of PHG Surjit Singh 26988 by hand to register the case by writing the form, and the case number should be reported to the control room, and notification should be given and preparation of Special reports be done with the help of fellow employees including I, ASI.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that as per the prosecution story, 04 kg poppy husk and 610 intoxicant tablets of Alprazolam IP were recovered from the possession of the petitioner. He further contends that the alleged contraband i.e. 4 kg of poppy husk is non-commercial in nature whereas 610 intoxicant tablets of Alprazolam IP is marginally over and above the commercial quantity. It has been further

contended that the petitioner is in custody since 19.01.2023 and challan stands presented to Court on 03.08.2023 and charges have been framed on 04.09.2024.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that the petitioner is a habitual offender as he is involved in another case, wherein he is not on bail.

4. **Analysis**

Be that as it may, considering the custody period i.e. 02 years and 25 days for which the petitioner has suffered incarceration and the fact that the alleged contraband i.e. 4 kg of poppy husk is non-commercial in nature whereas 610 intoxicant tablets of Alprazolam IP is marginally over and above the commercial quantity in addition to the fact that investigation is complete, challan stands presented to Court on 03.08.2023, charges have been framed on 04.09.2024 and out of total 09 prosecution witnesses only 02 witnesses have been examined so far, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

Reliance can be placed upon the judgment of the Apex Court rendered in “***Dataram versus State of Uttar Pradesh and another***”, 2018(2) ***R.C.R. (Criminal) 131***, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the

investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.

*5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in *In Re-Inhuman Conditions in 1382 Prisons*, 2017(4) RCR (Criminal) 416; 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658*

*6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in *Nikesh Tara chand Shah v. Union of India*, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to*

Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.

7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”

Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.

5. **DECISION:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

17.02.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No