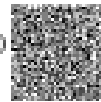


2025:PHHC:032150



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

**CRM-M-5139-2025
DECIDED ON: 06.03.2025**

CHAMKAUR SINGH**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. P.S. Sekhon , Advocate and
Mr. Rajdeep Singh Gill, Advocate for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Relief Sought**

This petition has been filed under Section 439 Cr.P.C. (482 of BNSS, 2023) for grant of regular bail in FIR No. 210 dated 09.11.2023 registered under Sections 22 and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 at P.S. City Sangrur, District Sangrur.

2. Facts

Facts as narrated in the FIR reads as under:-

“Copy of original ruqa, To the SHO PS City Sangrur, Jai Hind, Sir today I SI along with HC Gursewak Singh 745/SGR, SC Kulvir Singh 1071/SGR, SC Jagjit Singh 745/SGR having laptop, printer, inverter along in a Govt. Vehicle bearing registration no. PB-13BE-3707 being driven by SC Anwar Khan 817/SGR were going towards village Sohia Road from Main Road Sangrur-Patiala via unmattled road of drain going alongside Dashmesh

Nagar in relation to patrolling and checking of suspicious persons, meanwhile time around 03:50 PM when the police party reached about 200 meters ahead from the drain bridge of Sangrur-Patiala Road in the revenue limits of City Sangrur then two cropped hair persons were seen standing in the fields towards the right side of police party who were holding one heavy polythene of black colour in their hands and they were moving their hands in it. On seeing the vehicle of police party they got perplexed and immediately tried to escape from there by throwing away the polythene which they were holding in their hands. I SI on the basis of suspicion stopped our vehicle near to them and apprehended them with the help of police party after getting alighted from the vehicle and asked about their name and address. On which one of them disclosed his name as Bittu Singh son of Kaka Singh son of Late Dalip Singh resident of Ram Nagar Basti, Sangrur PS City [1 Sangrur](#) and the second cropped hair person disclosed his name as Chamkaur Singh son of Rohi Singh resident of Back Side of Ram Bag, Sainsi Basti Barnala PS City Barnala. The mouth of the polythene bag thrown away by them was opened and from which several strips of intoxicant tablets of white colour make Tramadol were visible. I SI tried to join the private witness into the investigation at the spot but no private witness could be joined. Thereafter I SI prepared a separate notice under section 50 NDPS Act regarding the search of said black coloured polythene thrown away by the said Bittu Singh. He affixed his left thumb on the said notice and SC Kulvir Singh 1071/SGR and SC Jagjit Singh 941/SGR signed as witnesses. Thereafter I SI prepared a separate notice under section 50 NDPS Act regarding the search of said black coloured polythene thrown away by the said Chamkaur Singh to the ground having its mouth opened. Notice was being signed by said Chamkaur Singh in Punjabi Language and SC Kulvir 1071/SGR and SC Jagjit Singh 941/SGR signed as witnesses. Thereafter I SI as per law checked the said black colored polythene thrown away by the

said Bittu Singh and Chamkaur Singh having its mouth opened and from which strips of intoxicant tablets of white colour make Tramadol were visible after picking it up, on which from it 50 strips of intoxicant tablets make Tramadol were recovered. Each strip is bearing Tramadol Prolonged Release tablets IP (100) MG) Tramatrast SR 100 and batch number had been erased, each strip is containing 10/10 tablets, total 500 intoxicant tablets were recovered. Thereafter I SI put back the recovered strips of intoxicant tablets into the same black colored polythene and by putting it into a cloth bag its parcel was prepared. Parcel was sealed with seal bearing impression JS and sample seals were prepared separately. After use the seal was handed over to SC Kulvir Singh 1071/SGR. The parcel of intoxicant tablets duly sealed along with sample seals were taken police possession as per law vide separate memo. Memo was being signed by SC Kulvir Singh 1071/SGR and SC Jagjit Singh 941/SGR signed as witnesses. During preliminary inquiry said Chamkaur Singh disclosed that he had come to sell the said recovered intoxicant tablets to said Bittu Singh. The act of said Bittu Singh and Chamkaur Singh by keeping in their possession intoxicant tablets for sale and the act of said Chamkaur Singh by supplying the intoxicant tablets for fulfils sale the ingredients of commission of offence under section 22, 29/61/85 NDPS Act. On which I SI am sending the ruqa to PS City Sangrur by hand HC Gursewak Singh 745/SGR after getting it typed in laptop and taking its print out for the registration of case against said Bittu Singh son of Kaka Singh son of Late Dalip Singh resident of Ram Nagar Basti, Sangrur PS City [1 Sangrur](#) and Chamkaur Singh son of Rohi Singh resident of Back Side of Ram Bag, Sainsi Basti Barnala PS City Barnala under the said offence. Kindly inform the FIR no. after registering the case and inform control room Sangrur. I SI along with fellow policemen am busy in investigation at the spot. In the revenue limits of: Unmattled Road of Drain near Dashmesh Nagar Sangrur time 05:30 PM Lat. No. 30.240258

LongiNo. 75.861900 SD/- Jaswinder Singh 2119/SGR SI CIA Sangrur dated 09.11.2023.”

3. **Contentions:**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case and the alleged recovery of 500 tablets intoxicant tablets is of non-commercial in nature, but later on police further planted 700 tablets to make the case of commercial quantity. The counsel contends that the said recovery was not from the conscious possession of the petitioner. Additionally, it is asserted that the petitioner has no criminal antecedents, as he is not involved in any other criminal case.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition stating that the alleged recovery of contraband is commercial in nature.

4. **Analysis**

Considering the custody period undergone by the petitioner i.e., 1 year, 3 months and 21 days and is not involved in any other case, as is evident from the perusal of the custody certificate, meaning thereby he is a person of clean antecedents added with the fact that investigation is complete, challan stands presented on 01.05.2024, charges have been framed on 13.12.2024 and out of total 15 prosecution witnesses, none have been examined so far. This Court is sanguine of the fact that conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind bars for uncertain period, wherein “*bail is a rule and jail is an exception*” and it would also violate the principle of right to speedy trial and expeditious disposal

under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal)***

131. 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.

5. **Relief:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on 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.

(SANDEEP MOUDGIL)
JUDGE

06.03.2025

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>