



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

226

CRM-M-6755-2025

DATE OF DECISION: 11.02.2025

MANPREET KAUR ALIAS BEANTI

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dhiraj Jindal, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

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

This petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to grant Regular Bail to the petitioner in F.I.R No.61 dated 06.04.2023, under section 22 and 29 of Narcotic Drugs & Psychotropic Substances Act, (Act 61 of 1985), registered at Police Station Lehra, District Sangrur.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘Copy of Rukka Officer in charge police station Lehra Fateh! Today at police station. I along with Jagtar Singh 562/SGR; C-2 Sandeep Singh 989/SGR, Constable Gursewak Singh 745/SGR, Sr. Lady constable Ranbir Kaur 1397/Sng:, PHG Iqbal Khan 26720 Riding Government vehicle No. PB 13



AW 4112 alongwith driver: Gurpal Singh 622/Sang, along with laptops, printers, inverters, were patrolling and checking suspicious men on the paved road from village Haryau to village Daska. When the police party reached Haryau village about 2 km ahead, it was around 4.00 pm, it happened that a woman was seen walking on the paved road from the side of the village Daska. She stopped suddenly when she saw the police vehicle coming in front of her and she was holding a black plastic bag in her right hand which she threw away in the side area of road and started moving towards the narrow road going to the fields, Then | Sub Inspector came out from the police vehicle and with the help of senior lady constable Ranbir Kaur 1397/SGR, make a suspicious sound and asked for her name on which she told her name Manpreet Kaur alias Beanti w/o Sukhdev Singh s/o Subegh Singh, resident of Daska, and the leaves of narcotic pills were seen scattered from the black plastic bags which was thrown away by her. Then I Sub Inspector tried to add private witness on the spot but no one came forward to be a private witness. Then I Sub Inspector informed Manpreet Kaur about the situation and said, I am Sub Inspector Gurmail Singh 300/GRP. C.I.A. Stationed at Sangrur, "You are in possession of Narcotic Pills for sale which come under NDPS Act. Therefore search of the plastic bag thrown by you will be made and you will also be searched. But you have a legal right that you can get a gazetted officer or a magistrate to search you and the black plastic bag you have thrown down, or they can be summoned here or you can be produced before them and If you need a translator it can also be provided to you and then after a moment's thought she said that you gave me the information of the above notice under section 50 of the NDPS Act in my own language and it is very well explained to me. I refuse to call any translator on occasion. Because I understand the Punjabi language well and I hereby voluntarily certify that I have listened to it and understood it well. Yes I do not want any gazetted officer or magistrate to search me and the black plastic



bag thrown down by me. I have complete faith in you, you can search me and the black plastic bag thrown down by me which was in my possession. Then Manpreet Kaur was notified under Section 50 of the NDPS Act by the police officer. Manpreet Kaur @ Beanti found accepted their fact. Then the black plastic bag was picked up and checked, out of which the leaves of the drug pills were recovered. Then I Sub Inspector counted the leaves of the drug pills recovered from the black plastic bag and also which are scattered near the plastic bag, which counted a total of 104 strips and each each strip has 10/10 Narcotic Tablets. Total 1040 Narcotic Tablets out of which 77 strips are of Tramadol Prolonged-release Tablets IP TRAMOWELL 100-SR was written and batch no., M.F.G., Expiry date is deleted and 27 strips are of Alprazolam Tablets IP 0.5 mg ALPRASAFE-0.5 and in this also Batch No., M.F.G., and Expiry Date is deleted. Then 77 strips of Tramadol Prolonged-release Tablets IP TRAMOWELL 100-SR were put in the same plastic bag and then put them in a cloth bag and prepare the package and then the remaining 27 strips of Alprazolam Tablets IP 0.5 mg ALPRASAFE-0.5 were put in a separate plastic bag and then putting it in a cloth bag and then prepared the Package, both the Packages were stamped with their seal letter GS and the sample stamps were prepared separately. After that the seal is handed over to Jagtar Singh 562/Sang. Then I, SI took possession of the two loaded drug pills with all the stamps, including the specimen stamps, in police custody. Signature were taken on Recovery Memo. The offence of Manpreet Kaur alias Beanti bringing and possessing narcotic pills attracts the definition of 22/61/85 ND&PS Act. Case registered. Police Proceedings. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX'

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. He submits



that the petitioner is the mother of a female child born on 23.07.2021 and one male child aged about 3 years and both children need the care of their mother. He further submits that there is delay of more than one month in sending the sample for the FSL and during that period sample remained in the personal custody of constable Dilbag Singh, therefore, chances of manipulation and tampering cannot be ruled out. He has also argued that the antecedents of the petitioner are clean, meaning thereby she is not a habitual offender, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State

On the other hand, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 1 year, 5 months and 6 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that 770 tablets of Tramowell 100-SR and 270 intoxicating tablets of Alprazolam have been recovered from her, therefore, prays for dismissal of the petition.

4. Analysis

Be that as it may, from the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 1 year, 5 months and 6 days, antecedents of the petitioner are clean, meaning thereby she is not a habitual offender, and considering the fact that she is the only female member in her family



to take care of her children and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 10.08.2023, charges stands framed on 31.10.2023 out of 15 prosecution witnesses, only 2 PWs have been examined so far and 4 PWs have give up, which is sufficient for this Court to infer that the conclusion of trial is likely to take considerable time and therefore, detaining the petitioner behind the bars for an indefinite period would solve no purpose.

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 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. Decision:

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

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

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

11.02.2025
anuradha

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