

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201

CRM-M-7156-2025

Date of decision: 17.04.2025

ATINDERJEET SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Prince Saini, Advocate for
Mr. Chanakya Batta, Advocate for the petitioner.

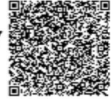
Mr. Jastej Singh, DAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)

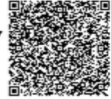
1. The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No.223, dated 12.08.2024, under Sections 15-B, 27-A, 61, 37, 85 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Phillaur, District Jalandhar.

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

“SHO, P.S. Phillaur (Jai Hind) today I ASI along with SI Nishan Sigh, 423, SI Karamjeet Kaur 3726/ PBI, ASI Angrej Singh 1863, Constable Manpreet Singh 466, Constable Lovepreet Singh 1821 by riding government vehicle bearing No. PB-65-BF-4208 Bolero along with laptop, printer, were patrolling from Muthada Khurd to Akalpur in search of bad persons, when police party reached near the Sukha Talab (dry pond) near village Akalpur then from right side of Sukha Talab from paved



brick road a white colour car bearing no.PB-06S-0070 turned towards Phillaur at a very high speed. The driver of which after seeing the police party from away the car at more faster speed. After chasing the above said vehicle with the help of other police personnels 1 ASI with grate efforts were able to stop the car at the bus stand Noor Mahal Road, Phillaur. On which I ASI after taking out both the persons out of the car, firstly asked the name and address of the driver of the car, on which firstly he told his name and address as Atinderjeet Singh @ Happy S/o Karnail Singh, R/o Khaira, P.S. Phillaur, District Jalandhar and the co-passengers sitting on the first seat on asking of me told his name as Baljinder Kumar @ Binder son of Shital Ram, R/o village Bhagapur, P.S. Phillaur, District Jalandhar. on which I ASI before searching the above said car tried to involve a public/independerit witness, but no one was ready to join as independent witness, everyone showed their inability. On which I ASI started searching the vehicle along with videography of the same. Then from the boot (digi) of the car heavy plastic bag was recovered of which the mouth was tied with rope, of which after opening its mouth was checked and crushed poppy seeds were found there. That after making the arrangement for weighing the plastic bags containing crushed poppy seeds, plastic sack containing crushed poppy seeds was weighed on weighing scale which was 10 Kgs. That after sealing the mouth of 10 Kgs. Crushed poppy seeds sack with my seal JS 1 ASI took it in possession vide preparing separate memo, sample was prepared separately with seal JS. Plastic sack weighing 10 Kgs. Crushed poppy seeds with seal JS along with car bearing No.PB-06-S-0070 make Chevrolet cruze was taken in police possession after preparing separate memo. After using the stamp it was handed over to SI



Nishan Singh 423. Because Atinderjeet Singh @ Happy and Baljinder Kumar @Binder above has committed offence 15(B), 61, 85 NDPS Act by keeping 10 Kgs. Crushed poppy seeds with them. After preparing ruqa it is being sent to the police station for registering the FIR by hand through constable Lovepreet Singh 821/ JAL. After registering the FIR it may be informed. After preparing special report it may be sent to the District Magistrate and the senior officer. Control room may be informed. I am investigating along with other police officials Latitude 31.0229719, Longitude 75.783539."

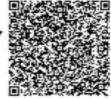
3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that on the basis of suspicion, police party recovered 10 Kgs crushed poppy seeds from the car of the petitioner bearing No. PB-06S-0070 while he along with his co-accused namely Baljinder Kumar @ Binder was travelling in his car. He further contends that co-accused namely Baljinder Kumar @ Binder and Sital Singh have already been granted the concession of regular bail by co-ordinate Bench of this Court vide orders dated 10.01.2025 and 11.12.2024 passed in CRM-M-57464-2024 and CRM-M-16482-2024, respectively. It has been contended on behalf of the petitioner that he is a man of clean antecedents as he is not involved in any other case.

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. As per the custody certificate the petitioner has undergone the incarceration for a period of 08 months and 02 days as of now and is not involved in any other case. He does not dispute the factum of recovery of contraband which



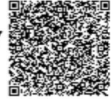
is of non-commercial in nature. Learned State counsel submits that challan stands presented, charges have been framed and 17 witnesses to be examined by the prosecution.

4. **Analysis**

Be that as it may, considering the custody period i.e. 08 months and 02 days for which the petitioner has suffered incarceration for the recovery of alleged contraband of 10 kg poppy husk (non-commercial in nature); co-accused namely Baljinder Kumar @ Binder and Sital Singh have already been granted the concession of regular bail by co-ordinate Bench of this Court vide orders dated 10.01.2025 and 11.12.2024 passed in CRM-M-57464-2024 and CRM-M-16482-2024, respectively; investigation is complete; total 17 prosecution witnesses are cited, 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:-

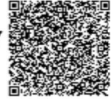
“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences 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.

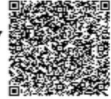
4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an 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.

5. **Relief:**

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

17.04.2025

Nisha Yadav

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