



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

303

CRM-M-7520-2025
DATE OF DECISION: 13/02/2025

NAVJOT SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ritesh Pandey, Advocate for the petitioner(s).

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Prayer**

This petition has been filed under Section 483 of BNSS for releasing the petitioner on bail in a case FIR No 6 dated 23.02.2024 U/s 21(b), 27-A, 29 of NDPS and section 25-27 of Arms act registered at Police Station Tibber Distt Gurdaspur.

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

'To, SHO PS Tibber Sir today I ASI along with ASI Mahinderpal 1222, ASI Gurnam singh 1294, ASI Jodh Singh 338, HC Edwin Masih 816, phc Dharam Singh 584 along with Laptop, printer, investigating kit were present at Ajala byepass for the purpose of petrolling and searching the bed elements then one Maruti car 800 bearing number PB06E5788 color white in which four persons were there, they were going to Babri



byepass to Pathankot side and who on seen the police party suddenly turned and the person sitting on driver seat open the driver gate and try to throw a plastic envelop, he was apprehanded along with other persons by I ASI with the help of my person and I ASI after disclosing my identity regarding rank and posting, asked their name and address one by one, upon that the person who was holding plastic envelop in his right hand disclosed his name as Navjot Singh son of Balbir Singh resident of Bhagowal PS Qila Lal Singh Distt Gurdaspur, the driver of the car told his name as Sukhjinder Singh alias Chotu son of Gulzar Singh resident of Kaler Kalan PS Sekhwan Distt Gurdaspur, the person sitting on the left side of back seat of the car told his name as Jaspreet Singh alias Jass resident of Bhagowal ps Qila Lal Singh Distt Gurdasour and the person sitting right side of the back seat of car told his name as Sarwan Singh son of Narinder Singh resident of Kaler Kalan PS Sekhwan Distt Gurdaspur. Before checking the plastic envelop which Navjot Singh was holding in his right hand 4/5 person from the public were tried to join with the police party by I ASI but no body was willing to join by showing their compulsion. Upon that I ASI in the presence of my persons checked the envelop and heroin was recovered. ASI told to the aforesaid persons that there was a suspicion of having narcotic substance in their possession, they have legal right that they can get your search before any Magistrate oe Gazetted officer and he can called them at spot, they told that whatever heroin they had you have already recovered apart that they had no other narcotic substance, they have full faith upon you, you can get the search of them and their car, upon that consent memo was prepared in which the witnessess put their witness and the accused Navjot Singh, Sukhjinder Singh alias Chotu, Jaspreet Singh alias Jass and Sarwan Singh aforesaid put their signature Thereafter I ASI conducted the search of accused Navjot Singh, Sukhjinder Singh alias Chotu, Jaspreet Singh alias Jass and Sarwan Singh one by one as per rules but no narcotic was recovered from anyone



.One computer weighing machine was recovered Jaspreet Singh alias Jass r/o Bhagowal PS Qila Lal Singh Distt Gurdaspur from the right pocket of his trouser during the search, the same was taken into police possession vide separate recovery memo, the Maruti car bearing no PB06E5788 was taken into police possession, the search of the car was conducted and one DOUBLE BARREL GUN bearing number 38383-05 along with 15 live cartilage was recovered, I was weight the heroin on computer weighing machine the same comes 70 gm along with polythine, the same was put in a plastic box and parcel was prepared and the same was taken into police possession vide separate recovery memo and I put me seal as bs, sample seal was prepared and the seal after use was handed over to ASI Mahinderpal Singh 1222, accused Navjot Singh, Sukhjinder Singh alias Chotu, Jaspreet Singh alias Jass and Sarwan Singh by keeping 70 gm heroin along with DOUBLE BARREL GUN number 38383 -05 along with 15 live cartilage have committed an offence under section 21(b) -61-85 of NDPS Act and 25-27-54-59 of Arms Act thus reqa is being send throughPHC Dharam Singh 584 to police station, FIR be registered and number be informed, special report be send to the higher officials and Magistarte, control rrom be informed through wireless I ASI along with my persosn are busy at the spot for investigation sd Balwinder Singh ASI PS Tibber dated 23.02.2024.'

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 a perusal of the FIR reveals that as per the complainant he along with the police party held Naka and apprehended four persons along with a car and the alleged recovery of 70 grams of Heroin was recovered from the petitioner and from the car double barrel gun along



with 15 live cartridge was recovered. He further submits that all the three co-accused persons have been granted concession of bail by this Court. He has further argued that it is highly improbable that the police party can identify the present petitioner throwing the plastic/polythene containing 70 grams of Heroin from the car when three other persons were already present in the car. It is his further argument that the antecedents of the petitioner are clean, meaning thereby, he 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 11 months and 18 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that double barrel gun was recovered from the car in which the petitioner was sitting, therefore, 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. 11 months and 18 days, nothing has been recovered from him, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, 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 09.08.2024 charges stands framed on 16.10.2024 out of 11 prosecution witnesses, only 01 PW has been examined till 27.01.2025 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. **Relief**

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

13.02.2025
anuradha

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