



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

**CRM-M-8228-2025
DECIDED ON: 23.04.2025**

GURJANT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: None.

SANDEEP MOUDGIL, J (ORAL)

1. The Punjab & Haryana High Court Bar Association and Bar Council of Punjab & Haryana High Court have decided “No work day” for today i.e., 23.04.2025 on account of sudden demise of Sh. Bhupinder Singh Rathore, oldest member of the Bar Council.

2. The jurisdiction of this Court has been invoked for the second time under section 483 BNSS for granting the regular bail to the petitioner in case FIR No.67 dated 20.06.2024 under Section 22, 29 of Narcotic Drugs and Substances Act 1985 registered at Police Station Bhindi Saidan, District Amritsar.

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

“Chief Munshi Police Station Bhindi Saidan” Today Me ASI/SHO including S/Ct Satnam Singh 548, CT Jaspreet Singh 1872, PHG Kuldeep Singh 3543 along with laptop patrolling in private vehicle in connection with casho operation from Police Station Bhindi Saidan to Village Bhindi

Saidan, Village Variah While going to village Kotli Dusandhi etc., when doing casho operation the police party reached the street in front of Amarjit Singh's house, a hindu man was seen coming towards his house on a bullet motorcycle, when he saw the police party he started running towards his house after parking on one side of the street his bullet motorcycle color black bearing Number PB02-EL-3210. He started to drop the weighty object in the polythene envelope in his right hand, but me ASI/SHO with the help of my fellow colleagues grabbed him by his right wrist and asked him his name and address, who revealed his name as Gurjant Singh, son of Amarjit Singh, a resident of Kotti Dasandhi police station, Bhindi Saidon. Before checking the polythene envelope in the right hand of the apprehended person All possible attempts were made, to join the public witness but no one join the police party expressing their own compulsion. When me ASI/SHO along with the presence of fellow officials checked the polythene envelope held in the right hand of above Gurjant Singh, white colored open narcotic pills were found in the polythene envelope, when counted 800 white open narcotic pills were found.. After putting the confiscated open white colored narcotic pills in a separate plastic box and preparing a cloth parcel, me ASI/SHO sealed it with my seal AS. Sample stamp prepared separately. After completion of Form No. 04, after stamp reference is made to S/CT Satnam Singh 548. Above confiscated 800 white open narcotic pills from the said vehicle and a bullet motor cycle number PB-02-EL-3210 color black parked on the side with chassis number ME3U3K5F1NF001873 engine number U3K5F1NF241390 attached to one side by accused Gurjant Singh were seized as evidence through a separate procedure taken to the police custody. Due to random (bychance) recovery, the District Magistrate Sahib or Gazetted Officer did not get a chance to be called on occasion. Information in this regard is being sent to the district GO under Section 57 NDPS ACT. Accused Gurjant Singh son of Amarjit Singh resident of Kotli Dasandhi police station Bhindi Saidan has committed the

offense of 22/61/85 NDPS ACT by keeping 800 open narcotic tablets without license, and without medical prescription. Which is being sent to the police station to register the case by hand writing the statement to PHG Kuldeep Singh 3543. The number should be made aware of the case by registering the case. A special report should be prepared and sent to the service of the District Magistrate and the officers and the control room should be alerted wirelessly Me ASI/SHO with fellow officials are present at the spot to investigate the matter. Area of Kotli Dusandhi. At:- 2:35 PM true /Agyapal Singh ASI/SHO Police Station Bhindi Saidon Today police station:- At this time the said document is in Police Station and the case is being registered under the said crime by registering the original statement with copy of FIR and is being forwarded to ASI/SHO through PHG official After preparing a Special report, in hand to CT Parminder Singh 1911 is being sent to the service of District Magistrate Sahib and Officers and a wireless notification was given to the control room.”

4. It has been pleaded in the petition that as per the prosecution story, total 800 white coloured loose narcotics pills of Tramadol Hydrochloride Salt has been recovered from the conscious possession of the petitioner and the said alleged contraband is marginally over and above the commercial quantity.
5. As per the custody certificate produced in Court by the Pervi Officer, the petitioner has suffered incarceration for a period of 10 months and 01 day and the petitioner is not involved in any other case.
6. Be that as it may, considering the custody period undergone by the petitioner i.e. 10 months and 01 day added with the facts that the quantity of alleged contraband is marginally over and above the commercial quantity; investigation is complete, wherein after framing of charges on

09.12.2024 out of total 13 prosecution witnesses, none has been examined so far, which is suffice for this Court to infer that the conclusion of trial shall take considerable time, this Court is of the considering view that detaining the petitioner behind the bars for an indefinite period would serve no purpose.

7. Taking into consideration the following orders passed by the Coordinate Benches of this Court wherein the recovery from the accused was marginally over and above the commercial quantity for the respective contraband in each case, the Courts have taken a lenient view while granting bail to the accused therein i.e. *Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022* decided on 04.04.2022, *Pardeep Singh versus State of Punjab, CRM-M-46244-2022* decided on 19.01.2023, *Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)* decided on 11.11.2022, *'Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)'* decided on 19.01.2022, *'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020*, decided on 27.08.2020, *Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021*, decided on 31.08.2021, *Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021*, decided on 27.01.2021, *Gurpreet Gopi Versus State of Punjab, CRM-M-41039-2019, Singh* decided on 26.02.2020, *Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023'*, and *Vivek Watts versus State of Punjab, CRM-M-13791-2022* decided on 15.02.2023.

8. 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.”

9. 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.

10. 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.

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

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

13. The Jail Authority concerned is directed to intimate the said order to the petitioner-accused.

23.04.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No