

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-8698-2025 (O&M)

Date of Decision: 27.02.2025

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Rachna Singh

... Petitioner

VS.

State of Punjab

... Respondent

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CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

\*\*\*\*

Present: Mr. PS Sekhon, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

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**Sandeep Moudgil, J.**

**Relief claimed**

(1). This petition has been filed under Section 483 of BNSS of 2023 for grant of regular bail to the petitioner in FIR No.147 dated 27.07.2024 under Sections 15C/25/27/29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the NDPS Act), registered at Police Station Bhikhi District Mansa.

**Facts**

(2). Facts as emerging in the FIR is reproduced as under:-

*“Copy of ruga, SHO, Police Station Bhikhi, Jai Hind. Today, I, ASI along with C-2 Gurpreet Singh 1039/Mansa, SC Malwinderjit Singh 220/Mansa, SC Baljinder Singh 1465/Mansa, C Kuldeep Singh 905/Mansa along with electronic kit and investigation kit departure for checking of suspected persons and suspected vehicles on vehicle Rapid No.PB-31-P-3524 driven by SC Baljinder Singh 1465/Mansa and were going Kishangarh Farwahi, Fafare Bhai Ke, Borawal and when police party reached near drain at link road Fafare Bhai Ke to Borawal road then on left side of drain towards Fafare Bhai Ke one Alto Car bearing No.HR-20-N-1231 parked adjoining to Thada (fixed sitting area under Pipal Tree and black net was fixed on back side mirrors and three young persons were sitting with their below faces in it and who were tried to escape suddenly after seeing the vehicle of police party then I, ASI stopped the vehicle and got apprehended three persons sitting in Car with the help of colleagues on the basis of suspicion and asked their name and*

address turn by turn then the person sitting on driver seat told his name as Kuldeep Singh Son of Gurmail Singh Son of Gurdev Singh, resident of Kahangarh and the person sitting on conductor seat told his name Visakha Singh Son of Krishan Singh Son of Kasari Ram, resident of Mehma and the person sitting at back seat told his name as Rachna Singh Son of Gurdev Singh Son of Chhota Singh, resident of Daula Singh, Police Station Dharamgarh and to whom told that there is suspicion about intoxicant substance in your Car and due to this reason, want to check you and Car in your possession but you have legal right that you can check yourself and your Car from any Magistrate Sahib of Gazetted Officer and then they told that we want to check ourself and our Car from any Gazetted Officer. Thereafter, I, ASI contacted from M.No.9780007046 to PPS Gurpreet Singh DSP (SD) Mansa on his M.No.96211-00001 at 5:54 PM and after disclosing the facts requested to come on the spot for further proceedings and to whom, I, ASI disclosed about correct location/place and C Kuldeep Singh 905/Mansa sent to village Borawal for obtaining Computer Kanda and after some time PPS Gurpreet Singh DSP (SD) Mansa by travelling government vehicle along with gunman reached on the spot at 6:30 PM and who was got aware about facts and C Kuldeep Singh 905/ Mansa after obtaining Computer Kanda come on spot. Thereafter, PPS Gurpreet Singh, DSP stated to Kuldeep Singh, Visakha Singh and Rachna Singh turn by turn that I am Gazetted Officer of Punjab Government and posted as DSP (SD) Mansa. You have legal right that you can check yourself and your Car from any Magistrate Sahib or from any Gazetted Officer except me. Kuldeep Singh, Visakha Singh, Rachna Singh told turn by turn to PPS Gurpreet Singh, DSP Sahib that we have full faith upon you. You can check ourselves and our Car on the spot and we do not want to create any strict evidence against us. Upon this, information memo, legal right memo and consent memo has been prepared separately and upon which, Kuldeep Singh, Visakha Singh, Rachna Singh put their signatures and witnesses put their testimony. Upon this, PPS Gurpreet Singh, DSP Sahib along with me/ ASI checked the Car of Kuldeep Singh, Visakha Singh and Rachna Singh. Three plastic bags of white colour were recovered laying at back seat behind driver seat. Mouth of three bags were opened turn by turn and checked then Poppy Husk was recovered from three bags. Weight of recovered Poppy Husk along with bags were checked with Computer Kanda then weight of first bag along with weight of bag becomes 17 Kilo 990 gram and the same was marked as A, weight of second bag along with weight of bag becomes 17 Kilo 995 gram and marked as B and weight of third bag along with weight of plastic bag becomes 17 Kilo 975 gram and marked C. Total weight of bags of recovered Poppy Husk becomes 53 Kg 960 gram. No other article was recovered upon checking of Car and no document pertaining to ownership of Car was recovered. Three bundles of recovered Poppy Husk was marked by me/ASI along with his stamp NS. Sample stamp was prepared separately. After use it handed over to SC Baljinder Singh 1465/Mansa. Three bundles were duly stamped by Sh. Gurpreet Singh DSP (SD), Mansa with his stamp GSB and attested the sample stamp

*by affixing his stamp and keep his stamp in his possession. Three bundles of recovered Poppy Husk, Sample Stamp and Alto Car No.HR-20-N-1231 were taken into police possession vide recovery memo. Witnesses put their testimony on memo and attested by DSP (SD), Mansa. Personal search of accused was carried out in the presence of Sh. Gurpreet Singh, DSP and whatever was recovered during personal search, the same was taken into police possession vide recovery memo. Kuldeep Singh, Visakha Singh and Rachna Singh committed the offence under Section 15 (c)/61/85 of NDPS Act by keeping 53 Kg 960 gram Poppy Husk in their possession. Upon this, ruga against Kuldeep Singh, Visakha Singh and Rachna Singh under the above said Section sent to Police Station for registration of case through SC Malwinderjit Singh 220/Mansa. Case number be intimated after registration of case. PCR Mansa informed through W/M separately. Special reports be issued. I, ASI along with colleagues present on the spot for investigation. Sd/- Nachhattar Singh ASI, Police Station Bhikhi dated 27.07.2024 link road Fafare Bhai Ke to Borawal near Drain Bridge at 8:45 PM. Upon receiving ruqa in Police Station, the above said case number under the above said Section against Kuldeep Singh Son of Gurmail Singh, resident of Kahangarh, Visakha Singh Son of Krishan Singh, resident of Mehma and Rachna Singh 2006 son of Gurdev Singh, resident of Daula, Police Station Dharamgarh was registered and record has been completed. Original ruqa along with case file sent back through SC Malwinderjit Singh 220/Mansa before ASI Nachhattar Singh 398/Mansa on the spot. Copy of FIRs as special reports and necessary post prepared and then forwarded through SCT Gursewak Singh 1501/Mansa before Hon'ble Illaqa Magistrate Sahib and Higher Officers. PCR Mansa informed separately."*

### **Submissions of the petitioner**

(3). Learned counsel for the petitioner submits that the petitioner is in custody since 27.07.2024 and the recovery of contraband i.e., 53.960 kgs of poppy husk is marginally above the commercial quantity. He further submits that the weight of the contraband was done alongwith the weight of the three bags and in case the weight of the bags will be reduced from the total weight, then the quantity fall under the category of non-commercial. He then submits that Kuldeep Singh, who was driving the said vehicle from which the alleged contraband was shown to have been recovered, has already been granted the concession of regular bail and seeks parity as has been extended to

him by this Court vide order dated 05.02.2025 passed in CRM-M-5638-2025 (Annexure P2).

**Stand of the State**

(4). Learned State counsel has filed the custody certificate of the petitioner, which is taken on record, in terms whereof the petitioner has undergone 6 months and 27 days of custody. He prays for dismissal of the present petition stating that the huge quantity of contraband was recovered from the petitioner, therefore, he does not deserve the concession of bail at least at this stage.

**Analysis**

(5). Heard learned counsel for the parties.

(6). Considering the custody period undergone by the petitioner i.e., 6 months and 27 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 05.12.2024 and charges are yet to be framed and total 21 prosecution witnesses are to be examined, meaning thereby conclusion of trial shall take long 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.**

(7). 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**. Beside 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.

### **Conclusion**

(8). In view of the discussions made hereinabove and also keeping in view the fact that the co-accused Kuldeep Singh has already been granted the concession of regular bail, this petition is allowed and it is directed that the petitioner be released on regular bail on furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

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

27.02.2025  
V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

**(Sandeep Moudgil)**  
**Judge**

Yes/No  
Yes/No