

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9965-2025 (O&M)

Date of Decision: 27.02.2025

Paramjit Singh @ Pamma

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Anupam Bhanot, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

Sandeep Moudgil, J.

Relief claimed

(1). This petition has been filed under Section 439 CrPC for grant of regular bail to the petitioner in FIR No.91 dated 22.06.2024 under Section 22(B) (Section 22(C) added later on), registered at Police Station Shahkot, District Jalandhar.

Facts

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

"To Station House Officer Sahib Police Station Shahkot Jai Hind, "Today, including ASI Puran Singh No. 260/Jalan, S/CT Buta Singh No. 1550, S/CT Simarjit Singh Mattu No. 1292, they were on Government vehicle PB08-BV-2968, driver of which is SCT Simarjit Singh Mattu No. 1292 on patrolling duty in search of suspicious and bad elements from town Shahkot to village Dhandowal, Kotla Suraj Mall, Kakra, was going to village Talwandi Sanghera. When police party was 150 yards behind village Talwandi Sanghera, a young man was seen walking towards village Talwandi Sanghera. Upon noticing police party coming, he immediately perplexed and from his left hand threw the same in the fields from his right pocket of wearing pant. He took out a wax envelope and threw it in the fields. So on suspicion, 1/ASI stopped the vehicle and asked identity of said young man, he disclosed his name as Paramjit Singh son of Dhian Singh resident of Ward No. 7 Mohalla Baghwala, Shahkot district Jalandhar. I am in-charge of police station Shahkot. I suspect that there is some narcotic substance in the envelope that you threw. Which is to be searched, you have legal right that you can get yourself and wax envelope

thrown by you to be searched by Gazetted officer or a magistrate which can only be called at the spot. He reposed confidence so consent form was prepared and you can get the search conducted the envelope dropped. A notice under Section 50 NDPS ACT was served upon Paramjit Singh alias Pamma and he signed the same in Punjabi and same was witnessed by witnesses. IASI made efforts to include independent witness in to police party before searching the polythene envelope dropped in the field by Paramjit Singh alias Pamma, but everyone expressed their own compulsion On which I/ASI, in the presence of his fellow employees, took the wax envelope thrown by Paramjit Singh alias Pamma in the field and opened it and checked it, then loose tablets of pale pink color were found. After counting the loose tablets were counted to be 270 in number. A parcel was prepared by putting loose tablets and same was sealed by ASI with seal BR/-. A sample seal was prepared separately. After use the seal was handed over to ASI Puran Singh No. 260/Jal. The parcel containing loose tablets seized by police in presence of witnesses was taken in police custody. As accused Paramjit Singh alias Pamma has committed crime under section 22 (B)-61-85 NDPS ACT by keeping 270 loose tablets in his possession. A hand written Ruqa was prepared which is being sent to police station through S/CT Buta Singh No. 1550/Jal to get register as case to police Station Talwandi Sanghera at 8:15 P.M LAT 31.07448 Long 75.39644 Sd/- Buta Ram ASI In-charge Talwandi Sanghera Police Station Shahkot District Jalandhar Rural Date 22.06.2024 case be registered and number be made available.”

Submissions of the petitioner

(3). Learned counsel for the petitioner submits that the petitioner is in custody since 22.06.2024 and nothing was recovered from him and the alleged recovery of contraband was planted on him inasmuch as the 270 loose intoxicant tablets were allegedly found in possession of the petitioner but the same were not in his conscious possession. He further submits that the recovery was not witnessed by any independent witness except the police officials who were part of the raiding team and as such, the story of recovery of contraband does not inspire any confidence on the prosecution version.

Stand of the State

(4). Learned State counsel has filed the custody certificate of the petitioner, which is taken on record and in terms whereof the petitioner has

undergone 8 months and 1 day 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., 8 months and 1 day and in two other cases of similar, the petitioner is on bail. The investigation is complete, challan stands presented on 20.11.2024 and charges were framed on 04.02.2025 and out of 9 PWs, none have been examined, meaning thereby the 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.

(8). As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as "Baljinder Singh alias Rock vs. State of Punjab" decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of the concession of bail.

(9). Additionally, it is highly improbable that the prosecution case can be substantiated using 270 loose tablets, which are not readily available in the open market. However, it is conceivable that expired medicines, removed from their original packaging, could be misused to falsely implicate individuals like the petitioner. This possibility of manipulation cannot be overlooked, particularly in light of the fact that the tablets in question are not commercially available.

(10). Be that as it may, from the above discussion, it can be culled out that though 270 loose tablets have been alleged to be recovered from the petitioner, there is gross violation of the mandate of Section 42 and 50 of NDPS Act wherein no independent witness was joined while making the search

of the petitioner and the petitioner has already suffered sufficient incarceration i.e. 8 months and 1 day and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt.

Conclusion

(11). In view of the discussions made hereinabove, 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.

(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.

27.02.2025
V.Vishal

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

(Sandeep Moudgil)
Judge

Yes/No
Yes/No