

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10123-2025 (O&M)

Date of Decision: 27.02.2025

Navdeep Kaur @ Navu

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Sanju Wadhwa, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

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.95 dated 22.04.2023 under Sections 22/61/85/27 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the NDPS Act), registered at Police Station Patran, District Patiala.

Facts

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

“Statement of ASI Jaswant Singh No.2665/Patiala. To, the Station House Officer, Police Station Patran. Stated that I am posted as Investigating Officer at Police Station Patran. I along with ASI, Jagtar Singh no.27/Patiala, SI Didar Singh No.2297/Patiala, PHG Megh Lal No.18202, Lady Constable Jaspreet Kaur No.3542/Patiala, reached at Harman Nagar, Chunarga Road, Patran, via private vehicle along with laptop, printer and search operation kit. At about 06:00 pm, one healthy lady was on seeing the police party took out polythene from the right pocket of her lower and thrown the same towards right side of the same and tried to enter the house by walking swiftly. However, I apprehended the said lady with the help of co-employee lady Constable Jaspreet Kaur No.3542/Patiala and asked her identity, whereupon she disclosed her name Navdeep Kaur alias Navu wife of Paramjeet Singh, resident of Harman Nagar, Patran. I asked the reason as to why she started walking swiftly on seeing the police party. Thereupon, she disclosed that the polythene thrown by her contains intoxicating powder and due to which, I became perplexed and tried to enter the house on seen the police party, but the police party

was doing search operation in the nearby area. I gave intimation to you with regard to throwing of polythene by Navdep Kaur alias Navu which contains intoxicating powder and on receipt of the said information, after some time, you along with ASI, Sarabjit Singh no.266/Patiala came on the spot via government vehicle No.PB-11-CF-3806, being driven by PHG, Ram Phal No.29978. Navdeep Kaur alias Navu has committed illegal acts by keeping intoxicating powder in her possession. Therefore, legal action may kindly be taken against her. I have got recorded my statement, listen and same is correct. Sd/- Jaswant Singh.”

Submissions of the petitioner

(3). Learned counsel for the petitioner submits that the petitioner is in custody since 22.04.2023 and that no recovery was effected from him. She submits that as per the FSL report, 30 gms intoxicant powder is Tramadol Hydrochloride salt and as per weight it falls under the non-commercial quantity. She then submits that the petitioner was granted regular bail by the trial court but on 19.01.2024, she could not appear as she was suffering from high fever and vomiting and as such she requested her counsel to file exemption application which was not filed leading to cancellation of bail bonds and surety was forfeited and thereafter, she was arrested on 11.09.2024. She again filed bail application which was dismissed as withdrawn with liberty to avail alternative remedy as Section 27 of NDPS Act was added later on and therefore, this petition is has been filed.

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 6 months and 29 days of custody and after submission of challan on 10.07.2023, charges were framed on 17.12.2024 and none out of 12 PWs have been examined till date. He prays for dismissal of the present petition stating that the huge quantity of contraband was recovered from the petitioner,

therefore, she does not deserve the concession of bail at least at this stage. He submit that the petitioner has a previous criminal history as there are 3 other cases pending against her.

Analysis

(5). Heard learned counsel for the parties.

(6). Considering the custody period undergone by the petitioner i.e., 6 months and 29 days added with the fact that investigation is complete, challan stands presented and total out of total 12 prosecution witnesses, no one has been examined yet, 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.

(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.

Conclusion

(9). 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.

(10). 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