

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10078-2025 (O&M)

Date of Decision: 27.02.2025

Sukhjinder Singh @ Sukh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Jashandeep Singh Sandhu, 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 petitioners in FIR No.06 dated 24.01.2021 under Section 21/29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the NDPS Act), and Section 25 of the Arms Act, 1959, registered at Police Station City Ahmedgarh District Malerkotla.

Facts

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

"Copy of Rapet "SHO Sahib Police Station Ahmedgarh, Fatah" Today, I, ASI alongwith Constable Beant Singh 54 and Constable Harpreet Singh 1620 were going on private car alongwith laptop printer. We were going for checking the suspected persons and vehicles at village Jandwali Road, Near Under Bridge, Ahmedgarh. At about 11:45 PM one car without number Mark Swift of white color came from village Jandwali. We gave the signal to stop the car with the help of torch light and there were three young person in the car and we enquired why there is no number on your car and out suspect we enquired the name of the persons. The person who were driving the car that his name is Sukhjinder Singh @ Sukh Dillon, son of Lakha Singh, Resident of Rukan Shah Wala, Police Station Mall Wala, Tehsil and District Ferozepur. he person who was sitting at conductor seat stated that his name is Parvinder Singh 8 Gaggi son of Ranjit Singh, resident of village Sadho Herri, Police Station Nabha, Tehsil Nabha, District Patiala. The person who was

sitting at the back side stated that his name is Akshay Kumar @Sunny son of Manjit Kaur, Resident of Mohallan Patwariana Wala, Street No. 1, Kotkapura. When we checked the car one transparent bag of white colour in which intoxicate material was shown and one electric scale, one aluminum paper, one lighter, 12 transparent plastic bag, one pistol of 32 borr, 2 magazine in which 7/7 living cartridge. The above said persons have not produce any license regarding weapons. Sukhjinder Singh @ Sukh Dillon, Parvinder Singh @ Gaggu and Akhsay Kumar @ Sunny have possession of intoxicated material so they have committed offence under Section 21/61/85 NDPS Act and they have also committed offence 25/54/59 of Arms Act, having in possession of 32 borr revolver and living cartridge. On this, I, ASI sent the ruga to the police station for registering the case against above said persons namely Sukhjinder Singh @ Sukha Dhillon son of Lakha, resident of village Rukan Shah, Police Station Malla Wala, Tehsil and District Ferozepur, Parvinder Singh @ Gaggu son of Ranjit singh, resident of village Sadh Herri, Police Station Sadar Nabha, Tehsil Nabha, District Patiala and Akshay Kumar Sunny son of Manjit Pal, resident of Mohallan Patwarian Wala, Street Kotkapura. The ruqa No. 1, was sent after getting the print out from printer by hand constable Harpreet Singh 1620 to the police station Ahmedgarh. According to the Direction of the Hon'ble higher Courts the information was sent to investigation officer. The case be registered and information be given regarding FIR number. The information be also sent to incharge control room. Special courts were also sent. I, ASI, alongwith my official staff are present at the spot at village Jandwali Road, Ahmedgarh Road, at 12:40 AM Sd/- Sukhvir Singh ASI Police Station 24.01.2021."

Submissions of the petitioner

(3). Counsel for the petitioner has submitted that the petitioner was wrongly implicated in the present case in which there is gross violation of standing instructions/guidelines issued by DGP Punjab in regard to use of private vehicle which has been illegally used by the police party. He submits that no independent witness was joined nor the petitioner was offered or conveyed his right or any gazetted officer/Magistrate was joined during recovery. It is further averred that nothing has been recovered from the conscious possession of the petitioner and moreover, he has no link with the alleged recovery.

Stand of the State

(4). Learned State counsel has filed the custody certificate dated 27.02.2025 which is taken on record, according to which, the petitioner has undergone 3 years 9 months and 20 days of custody and pursuant to submission of challan on 20.07.2021, charges have been framed on 15.03.2023 and out of total 17 PWs, only 5 have been examined till date. He then submits that there are two other cases pending against the petitioner and in three cases, he has been convicted whereas, in five cases, production warrant has been issued in his name and therefore keeping in view the criminal history, he does not deserve to be released on regular bail.

(5). It is contended that the 300 grams of white intoxicant powder, one .32 bore pistol, two magazines containing 7-7 live cartridges i.e. total 14 live cartridges, one electronic scale, one aluminum paper, one lighter and 12 transparent polythene pouches were recovered from the car and on personal search of co-accused Parminder Singh and Akshay, 10 grams powder and 15 grams of powder, respectively were recovered.

Analysis

(6). Heard learned counsel for the parties.

(7). Considering the custody period undergone by the petitioner i.e., 3 years 9 months and 20 days and also the fact that the investigation is complete, challan stands presented and out of 17 PWs, only 5 PWs have been examined till date, 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.**

(8). 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.

(9). 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

(10). 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.

(11). 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