



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

227

CRM-M-12600-2025

DATE OF DECISION: 07.05.2025

GURPREET SINGH ALIAS GOPI

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Kuldeep Singh, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No.113 dated 12.06.2024 for offences under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of NDPS act, 1985 added later on) registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘Statement of ASI Baldev Singh 719/KPT PS Sultanpur Lodhi District Kapurthala. Stated that I am posted at Police Station Sultanpur Lodhi as investigating officer. Today I along with S/CT Vinod Kumar 682/KPT, S/CT Mandeep Singh 630/KPT, PHG Surinder Singh 28519 on private vehicle went to Gurudwara Ber



Sahib from police station Sultanpur Lodhi, Dalla Road from Lohia octroi (chungi). When police party reached at road turn Dalla after crossing under bridge railway then two shorn haired youths were seen standing on the left side of road. Both the youths on seeing the police party threw the heavy polythene bag between their feet from their trouser pockets. To whom I apprehend with the help of fellow officials on the basis of suspicion. Then I identified my name, designation and posting and that of my fellow officials to apprehended youths. Then I asked the name/address of apprehended youths turn by turn. Then first youth disclosed his name as Gurpreet Singh @ Gopi son of Mahinder Pal resident of Mohalla Mehrea Sultanpur Lodhi District Kapurthala and second youth disclosed his name as Gagandeep son of Amarjit resident of Station Mohalla Sultanpur Lodhi District Kapurthala. When I ASI asked from apprehended youths that why you have thrown the polythene bag on the bank of road from your pocket on seeing the police party and what it contains? Then Gurpreet Singh @ Gopi and Gagandeep Singh turn by turn told that these polythene bags contain intoxicating capsules. We were perplexed on seeing the police party and we were waiting for giving the intoxicating capsules to our customers. Upon which, I ASI had given the intimation to Head Munshi Police Station for informing the officer to reach on competent investigating the spot for further investigation. Upon which, I along with fellow officials reached on the spot. I have handed over apprehended both the youths and have also shown the polythene bags thrown on the bank of the road. You have recorded my statement, read over which is correct.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. As per the allegations, 250 capsules containing Alprazolam were allegedly recovered from the petitioner. He submits that neither the petitioner was present at



the spot nor any alleged contraband was recovered from the physical possession of the petitioner. He further submits that the petitioner was picked up by the police from his house and was implicated in the present case due to the political rivalry and party faction in the village. He has further argued that the antecedents of the petitioner are clean. Moreso, the investigation in this case is complete as challan stands presented on 24.10.2024 charges stands framed on 08.04.2025 out of 8 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State

On the other hand, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that total 450 intoxicant capsules which are on higher side were recovered from the petitioner and the co-accused, hence, prays for dismissal of the petition.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 9 months and 1 day, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, nothing is to be recovered from the petitioner, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands



presented on 24.10.2024 charges stands framed on 08.04.2025 out of 8 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time and therefore, detaining the petitioner behind the bars for an indefinite period would solve no purpose.

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.”

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 “**Balwinder Singh versus State of Punjab and Another**”, **SLP (Crl.) No.8523/2024**. Relevant paras of the said judgment reads as under:-

“7. An accused has a right to a fair trial and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution.

8. *It is not for nothing the Author Oscar Wilde in “The Ballad of Reading Gaol”, wrote the following poignant lines while being incarcerated:*

*“I know not whether Laws be right,
Or whether Laws be wrong;
All that we know who be in jail
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.”*

5. **Relief**

In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

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

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

07.05.2025
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>