

2025:PHHC:037790



242 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12719-2025
DECIDED ON: 19.03.2025

MANPREET SINGH

....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sahil Kaundal, Advocate for
Mr. Naresh Kumar Jandoli, Advocate for the petitioner.

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

SANDEEP MOUDGIL, J (ORAL)1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No. 21 dated 31.01.2024 under section 22 of Narcotic Drugs and Psychotropic Substances, Act 1985 registered at Police Station Garhshankar, District Hoshiarpur (Annexure P-1).

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Station House Officer Police Station Garhshankar District Hoshiarpur, "Jai Hind Today I INSP alongwith LR/ASI Manna Singh Number 1503/Hoshiarpur, CT Dharmveer Number 1557/Hoshiarpur, CT Rohit Mehmi Number 395/Hoshiarpur with laptop, printer and PHG Ramandeep Singh Number 26780 with investigative kit, searchlight, in private vehicle on

patrolling duty and checking of suspicious persons and all types of vehicles, from village Barapur, Jhungian etc. towards village Binewal side when the police party turned from Singh Mod towards village Binewal, then near the turn, two clean-shaven youths were standing, who, on being suspicion, were apprehended with great difficulty by INSP with the help of accompanying staff. When their names and addresses were asked one by one, the first apprehended young man stated his name as Shankar Das son of Baljeet Ram resident of viliage Binewal, Police Station Garhshankar, District Hoshiarpur, and the second young man stated his name as Manpreet son of Satnam resident of village Binewal, Police Station Garhshankar, District Hoshiarpur. On this, the apprehended two young men were introduced by I INSP, that my name is INSP Kuldeep Singh and I am posted as an Investigating Officer at Police Station Garhshankar, District Hoshiarpur, and with me, the entire police party is in uniform from Police Station Garhshankar and each employee has a nameplate attached. Due to this, I suspect that you both have some illegal items. Therefore, both of you are being searched, but you both have a legal right that if you want your search to be conducted in the presence of a magistrate or a gazetted officer, arrangements can be made on the spot. On this, the aforementioned two jointly said that they fully trust you, you can conduct our search yourself. On this, a separate consent memo of Shankar Das and Manpreet was prepared and at the spot, separate riotices under section 50 NDPS ACT were issued to Shankar Das and Manpreet. The separate consent memos and notices under section 50 NDPS ACT were signed by Shankar Das and Manpreet separately and LR/ASI Manna Singh Number 1503/Hoshiarpur, CT Dharmveer Number 1557/Hoshiarpur also signed as witnesses. Before conducting the search on the spot, every possible effort was made to join the public witness in the police party, but everyone expressed

their inability, and no one joined the police party on the spot. Then I INSP in the presence of fellow employees and witnesses first conducted the search of Shankar Das as per the law, and upon searching the right pocket of his worn sweater (koti), a white-colored heavy polythene envelope was recovered. When it was opened and checked, upon checking, a total of 15 loose intoxicating injections without labels were recovered, which were wrapped in the same white-colored polythene envelope and prepared as a sealed parcel. After this, the search of Nempreet was conducted as per the law, and from the left pocket of his worn pajamas, a black-colored heavy polythene envelope was recovered. When it was opened and checked, upon checking, a total of 500 loose intoxicating orange-colored tablets without labels were recovered. These were wrapped in the same black-colored polythene plastic envelope and a separate sealed parcel was prepared. After this, the aforementioned two parcels were sealed on the spot by I INSP with seal bearing impression KS' as 1/1 and handed over to IR/ASI Manna Singh Number 1503/Hoshiarpur for safekeeping. Accused Shankar Das son of Baljeet Ram, resident of village Binewal, Police Station Garhshankar, District Hoshiarpur, was found in possession of a total of 15 loose intoxicating injections without labels, and accused Manpreet son of Satnam, resident of village Binewal, Police Station Garhshankar, District Hoshiarpur, was found in possession of a total of 500 loose intoxicating orange-colored tablets without labels, thus they have committed an offense under section 22-61-85 NDPS ACT. On this, the present report has reduced into writing and sent via PHG Ramandeep Singh Number 26780 to Police Station Garhshankar for registration of the case. After registering the case, the case number should be informed. Special reports should be prepared and sent to the area magistrate and senior officers. Information should be given to the control room. I INSP alongwith fellow employees is engaged in further

investigation of the aforementioned accused on the spot. Signed/Kuldeep Singh INSP Police Station Garhshankar District Hoshiarpur Date 31-01-2024. Today outside the area of village Binewal towards Singha Road at 6:50 PM. Today at Police Station:-Upon receipt of aforesaid writing/ruga, the mentioned case has been registered and the original document has been sent alongwith a copy of the FIR by hand of PHG for further investigation to INSP at the spot. Senior officers and the control room are being informed via wireless. Special reports are prepared and sent by hand of S/CT Ramandeep Singh 14/HPR to the area magistrate and senior officers. Completion Report Number 26 Date 31-01-2024 At 8:30 PM..”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and alleged recovery of 500 loose intoxicating tablets having no batch number and manufacturing date have been implanted on upon him, alleging the same to be recovered from the left pocket of his trouser/pajamas.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that huge quantity of loose tablets were recovered from the possession of the petitioner.

4. **Analysis**

Be that as it may, considering the fact that the contraband whatsoever has been effected from the petitioner is having no batch number and manufacturing date, thus the false implication of the petitioner cannot be ruled out at least at this stage for considering the petition for regular bail.

In addition thereto the antecedents of the petitioner are clean and after

framing of charges on 30.08.2024 none has been examined out of total 10 prosecution witnesses, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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 “**Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna**”, (1980) 1 SCC 98.

Besides 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.

5. Relief:

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

In the afore-said terms, the present petition is hereby allowed.

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

(SANDEEP MOUDGIL)
JUDGE

19.03.2025

sham

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No