

2025:PHHC:037016



**244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-13377-2025
DECIDED ON: 18.03.2025**

AMRIK SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

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

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This is a petition filed by the petitioner under Section 439 Cr.P.C. (483 BNSS, 2023) seeking regular bail in FIR No. 67, dated 22.04.2024, under Sections 21-B, 22-C of NDPS Act, 1985 registered at Police Station Special Task Force, Sector 79, District SAS Nagar, Mohali.

2. Facts

The facts as narrated in the FIR reads as under:-

“Copy of ruga. Station House Officer Police Station Special Task Force Sector 79, Sahibzada Ajit Singh Nagar. Jai Hind. Today myself Assistant Sub Inspector alongwith Head Constable Rajinder Singh No. SC/07, Senior Constable Mann Singh No.1009/ Mansa and Senior Constable Bhupinder Singh No. 2/248 were on government vehicle Bolero No. PB02CR0767, which was being driven by Head Constable Rajinder Singh No. 5C/07 and were on patrolling and in

search of suspected persons as well as that of drug smugglers. Barricading was done at the outer side of Village Bagehar, On the road leading towards the area of Village Burj Sema. Then started checking of vehicles. It will be around 10 AM that one white colour swift D-zire car was seen coming at a high speed. Assistant Sub Inspector Major Singh No. 69/Mansa given signal to stop the car. The driver of the car had stopped the car. At that time, there was only driver in the car. Head Constable Rajinder Singh No.5C/07 came near Assistant Sub Inspector Major Singh No. 69/Mansa and informed that car driver Amrik Singh is resident of Bhagi Wander. Earlier cases under Narcotic Drugs and Psychotropic Substances Act have been registered against him. Then Assistant Sub Inspector Major Singh No. 69/Mansa enquired about the name and address from car driver. He has told his name as Amrik Singh son of Bara Singh son of Darshan Singh resident of Village Bhagi Wander District Bathinda. He is aged about 30 years. Then upon suspect Assistant Sub Inspector Major Singh before conducting search of white colour Dzire Car NO. DLQ8CAC3143 tried to join some public witness. But there were women only present in the nearby houses. It was afternoon, therefore no other person was present at there. The persons who were working in the far away fields have shown their inability. Then upon conducting search in the dash board of the car, one black colour polythene was found lying at there. When it was opened and checked and found strips of intoxicant tablets. Upon calculation, total strips were 240 and each strip was consisting of 10 tablets. Total tablets are 2400. Marka Alprazolam IP 0.5 mg, B-Rest 0.5 (LILC NO. 31/UA/2013 and the company name is Akums Drugs & Pharmaceuticals Limited, Plot NO. 26A, 27-30, Sector 8A, I.I.E Sidcul, Haridwar-249403, Uttarakhand. The batch number and expiry date on all the strips were faded. Then Assistant Sub Inspector Major Singh No. 69/Mansa has thoroughly conducted checking of above said car. The plastic lid on the front side of gear lever was loose. It was lifted up with the help of screw driver and saw that there was transparent small polythene on the cloth and cream colour substance

was lying therein. Upon checking, it was found as heroine. When, it was weighed on the computer weigh scale, it was found 100 grams heroine. Then Assistant Sub Inspector Major Singh No. 69/Mansa put the recovered 2400 intoxicant tablets Alprazolam IP 0.5 mg, B-Rest 0.5 in the same black colour polythene and prepared cloth parcel. The recovered 100 gram heroine was put into plastic box alongwith small polythene and then prepared a cloth parcel. Then Assistant Sub Inspector Major Singh No. 69/Mansa has sealed both parcels with his stamp MS. Sample seal has been separately prepared. Both the parcels, sample parcel and white colour Swift Dzire Car NO. DL08CAC3143 have been taken into police custody through separate recovery memo. Memo of recovery has been signed by the witnesses. Because intoxicant tablets and heroine was recovered from the car of accused Amrik Singh. Therefore, his personal search was required to be conducted, because there was possibility of recovery of more intoxicant substance from him has been informed about his legal right and Assistant Sub Inspector Major Singh No. 69/Mansa has informed him that; I am Assistant Sub Inspector Major Singh. I am posted in Special Task Force, Bathinda Range Bathinda. Then Assistant Sub Inspector Major Singh No. 69/Mansa informed him that your search is to be conducted. I want to conduct your search as well as that of your scooter. But you have the right to either conduct your search from some Magistrate or from some other gazette officer, otherwise they can be called on the spot or you can be presented before them. Notice under section 50 of Narcotic Drugs and Psychotropic Substances Act has been separately given with regard to his legal right. The accused has put his signatures in Punjabi. Then the above said accused said to Assistant Sub Inspector Major Singh No. 69/Mansa that he wants to get conduct his search from some Gazetted officer. Upon this the memo of non-consent has been prepared. Memo of non consent has been signed by the witnesses as well as by the accused. Then Assistant Sub Inspector Major Singh made phone call to Paramjit Singh, Deputy Superintendent of Police, Special Task Force, Bathinda Range Bathinda, who was present in the area of Talwandi

Sabo and informed him about the facts of the case and made request to reach on the spot. Then Deputy Superintendent of Police, alongwith Senior Constable Baljinder Singh No. 2C/403 have reached on the spot on government bolero vehicle no. PB10FF3374. Then Assistant Sub Inspector Major Singh No. 69/Mansa informed him about the facts of the case. Then Deputy Superintendent of Police conducted enquiry from the person standing nearby Assistant Sub Inspector Major Singh about his name and address. He told his name as Amrik Singh son of Bara Singh son of Darshan Singh resident of Village Bhangi Wander District Bathinda. Then Deputy Superintendent of Police has tried to Joni public witness on the spot, but everybody has shown his inability. Then, Deputy Superintendent of Police informed him that I am Pramjit Singh Deputy Superintendent of Police and has been posted in Special Task Force, Bathinda Range, Bathinda. I am gazetted officer of Punjab government. Then Deputy Superintendent of Police informed him that your search is to be conducted under the provisions of Narcotic Drugs and Psychotropic Substances Act. I want to conduct your search as well as that of your scooter. But you have the right to either conduct your as well as your scooter search from some Magistrate or from some other gazette officer, otherwise they can be called on the spot or your can be presented before them. Notice under section 50 of Narcotic Drugs and Psychotropic Substances Act has been separately prepared to inform him about his legal right, which has been signed by him as well as by the witnesses. Then the accused said to the Deputy Superintendent of Police that he has complete faith in him and he may get conduct the search. Upon this Memo of consent has been signed by the witnesses as well as by the accused. Then as per direction of Deputy Superintendent of Police, Assistant Sub Inspector Major Singh No. 69/Mansa conducted personal search of accused. During personal search, two currency notes of 500/500, one R.C of Car NO. DL08CAC3143, one yellow colour Oppo mobile phone with IEMI No.861950051940439 and 861950051940421 with sim no. 7347604089 have been found. Besides this, no other objectionable

substance has been recovered. The parcel of recovered mobile has been prepared and sealed by Assistant Sub Inspector Major Singh No. 69/Mansa with his stamp MS. Sample seal has been separately prepared. Stamp after its use handed over to Head Constable Rajinder Singh NO.5C/01. Parcel consisting of mobile phone, which has been duly sealed, RC of car and currency notes have been taken into custody through separate personal search memo. Memo has been signed by the witnesses as well as by the accused. Deputy Superintendent of Police has attested the same. Accused has kept 2400 intoxicant tablets of Alprazolam Tablets IP 0.5 mg and B-Rest 0.5 mg in his possession without any permit as well as kept 100 grams heroine in his custody. Therefore has committed offence under section 21(b) 22(c))661/85 of Narcotic Drugs and Psychotropic Substances Act. Therefore, ruqa has been written for registration of FIR against accused Amrik Singh and has been sent through email rajidnerbrarpolice898@gmail.com to government email ID stf.police@punjabpolice.gov.in to Police Station Special Task Force, Sahibzada Ajit Singh Nagar. The hard copy of ruqa has been sent through Constable Bhupinder Singh 2/248 before you. Myself Assistant Sub inspector alongwith police party is busy in investigation on the spot. In the area of Village Bagehar District Bathinda. Time 03:05 PM. Sd. Assistant Sub Inspector Major Singh, Special Task Force, Bathinda Range Bathinda. Dated 22.04.2024. Upon receipt of writing, FIR has been registered under the above said offence against Amrik Singh. Record is being completed. For the purpose of sending copy of FIR as special report to the Illaga Magistrate and senior officers, email is being sent from email ID ps.staft.police@punjaopolice.gov.in the email ID rajidnerbrarpolice898@gmail.com which has been provided by the Investigating Officer. Direction has been given to send the special report to the concerned Illaga Magistrate through special messenger. Control room has been separately informed. Hard copy of ruga has been endorsed and copy of FIR will be sent through Constable Bhupinder Singh NO.2/248 upon his arrival before Assistant Sub

*Inspector Major Singh, Special Task Force, Bathinda Range
Bathinda.”*

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely roped in the instant FIR as no recovery has been effected from the conscious possession of the petitioner. He further contends that 2400 tablets of Alprazolam that has been allegedly recovered does not bear any batch number which stands corroborated by FSL report dated 30.06.2024 submitted by RTFSL Bathinda. It is urged by the counsel for the petitioner that mandatory provisions of Section 50 of the NDPS Act 1985 was not complied with wherein the search of the vehicle was conducted first and later the dissent statement of the petitioner was recorded which is prima facie a clear violation of the mandate of the Apex Court. Apart from this, it is also urged that alleged recovery of 100gm heroin falls under the non commercial quantity therefore prays for grant of regular bail.

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. According to the custody certificate, challan stands presented on 09.10.2024 and charges stands framed on 30.10.2024.

He seeks dismissal of the instant petition on the ground that the offence is of serious nature as total 2400 tablets of Alprazolam along with 100 gms heroin has been recovered from the car of the petitioner bearing no. DL08CAC3143. He further submits that the petitioner does not have a clean record as he is involved in other cases of similar nature and on this basis does not deserve the concession of regular bail.

4. Analysis

Be that as it may, taking into consideration the submissions made herein above added with the fact that challan stands presented on 09.10.2024, charges framed on 30.10.2024 and out of 15 prosecution witnesses, none has been examined so far, meaning thereby, conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would curtail his right for speedy trial and expeditious disposal, as enshrined under Article 21 of the 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***. 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.

During the course of argument another glaring fact has come before this Court, wherein the counsel for the petitioner has produced a newspaper page namely Indian Express dated 18.03.2025, which is taken on record as document ‘A’, wherein Director General of Police, Punjab, Gaurav Yadav has explicitly stated that Punjab police, precisely ***SSP and SHO will be assigned targets in the ongoing drive against drug on the basis of which their performance will be assessed.*** This incremental approach by law enforcement authorities can be likened to a bounty, which, rather than curbing the drug trade, may inadvertently facilitate its expansion at an accelerated rate due to the focus on meeting quantified targets.

Therefore, the facts of the instant petition has compelled this court to comment upon the anti-drugs drive started off late in Punjab, wherein all SSPs and SHOs will be given quantified targets and based on that, their performance will be assessed. As far as the present scenario of Punjab is concerned, the Anti-drug drive

is a welcoming step to combat the rising menace which is rotting the Indian youth but in cases where the performances of the police authorities will be assessed based on completion of quantified targets, this court has no hesitation in saying that such approach will create a barbaric situation wherein the innocent person would be made a scapegoat to achieve one's target. Such assessments would definitely lead to misusing of powers by the police authority and the essence of the anti drug drive would be lost in the urge of achieving a commendable ACR.

Coming to the instant case, the alleged recovery was from the car of the petitioner wherein the search was conducted in the broad day light yet as per the version of the prosecution, only women were present in the nearby houses and persons working in far away fields failed to show their ability to join as witness. Such concocted version of the prosecution raises suspect in the mind of the court and it is highly unacceptable that every now and then, the police authority fails to convince the passer-by to join as independent witnesses which certainly raises a doubt on the credibility of the police authority. No doubt, as per the mandate of the Apex Court in "**State of Punjab Vs. Baljinder Singh : AIR 2019 (SC) 5298**" Section 50 of the 1985 Act, applies to case of personal search and does not apply to search of bag/briefcase/vehicle or premises" yet it is to be made sure that the other side of this section is to be followed in its true letter and spirit as held by the Apex Court in "**State of Punjab v. Baldev Singh 1999(6) SCC** held that:

25. ...It appears to have been incorporated in the Act keeping in view the severity of the punishment. The search before a Gazetted Officer or a Magistrate would impart much more authenticity and creditworthiness to the search and seizure proceedings. It would also verily strengthen the prosecution case.

Therefore, it is the need of the hour for the State to draft a holistic approach where the police officials and the local community build a fiduciary

relationship and move ahead as a team to vanish the web of drug menace and the State should often hold seminars to imbibe in the police officials the quality of selfless work rather than merely working for increments.

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 lend the petitioner in a situation of denial the concession of bail.

5. Relief:

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail subject to 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

18.03.2025

Sham/Meenu

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*