



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

240

CRM-M-14184-2025

DATE OF DECISION: 20.03.2025

SUKHDEEP SINGH ALIAS SUKHI BHATRA

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Gill, 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 BNSS for grant of regular bail to the petitioner in case FIR No.265 dated 10.9.2023, Under Sections 21, 22 NDPS Act, 1985 (Later on added Section 29 NDPS Act, 1985), Police Station City Kharar, District SAS Nagar, Mohali.

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

‘Copy of ruqa, SHO, Police Station City Kharar, Jai Hind! Today, I, ASI along with ASI Kulwinder Singh No.256/Mohali and C. Husanpreet Singh No.1993/Mohali were riding private vehicle with investigating kit, laptop and printer and were present at Bhagat Ghat T-Point, near CIA cut, main road, Kharar towards Chandigarh side in connection with mobile nakabandi in search of suspicious persons. At about 10:40 PM, in the light of lights installed under the bridge, one clean shaven pedestrian was seen coming from C.I.A. Cut towards Bhagat Ghat. He on seeing the police party suddenly got perplexed and tried to turn back. On the basis of suspicion, I, ASI with the help of companions apprehended him and asked the reason of turning back. He could not give any satisfactory reply and he suddenly got perplexed. On asking, he disclosed his name as Sukhdeep Singh @ Sukhi Bhatra son of Gurcharan Singh, resident of village Peer



Sohana, Police Station Sadar Kharar, now resident of Flat No. 122, G.B.T. Nagar, Kharar. I, ASI disclosed my identity to him and told that I, ASI Narinder Singh No.2793/Patiala am posted at Police Station City Kharar and I am in uniform. I suspect that there is something intoxicant material with him and hence I want to search him. But he is legally entitled to get himself searched in the presence of any Gazetted Officer or Magistrate, if he wants, then they can be called at the spot or he could be brought before them. Upon this, Sukhdeep Singh @ Sukh Bhatra told that he wants to get himself searched in the presence of any Gazetted Officer. Upon this, the dissent statement of above mentioned Sukhdeep Singh @ Sukhi Bhatra was recorded. Above mentioned Sukhdeep Singh @ Sukhi Bhatra signed the memo of dissent statement in English and witnesses signed the same. Thereafter, I, ASI narrated the occurrence to Sh. Karan Singh Sandhu, Deputy Superintendent of Police, Kharar-1 and requested him to reach on the spot. After some time, Sh. Karan Singh Sandhu, Deputy Superintendent of Police, Kharar-1 reached at the spot in Govt. vehicle. He disclosed his identity to the person apprehended by me and told that "I, Karan Singh Sandhu am posted as Deputy Superintendent of Police, Kharar-1 and I am in uniform. You are to be searched. But you are legally entitled to get yourself searched in the presence of some other Gazetted Officer or Magistrate, then they can be called at the spot or you could be brought before them. Upon this, Sukhdeep Singh @ Sukhi Bhatra thought little while and reposed faith in me and told that I can search him". Upon this, the consent statement of Sukhdeep Singh @ Sukhi Bhatra was written under Section 50(1) NDPS Act. Memo was signed by Sukhdeep Singh @ Sukhi Bhatra in English as also by the witnesses. Thereafter, on the instructions of DSP Sahib, I, ASI conducted search upon Sukhdeep Singh @ Sukhi Bhatra and one polythene envelope recovered from the space made in the Capri (Sunde), which was open and checked and white coloured loose intoxicant tablets recovered, which were counted and came to be 2020 in numbers. Each tablet was marked like English letter L type. Sukhdeep Singh @ Sukhi Bhatra could not produce any license or permit for keeping intoxicant tablets in his possession. Thereafter, I, ASI put the recovered intoxicant tablets in the same polythene and thereafter put in the cloth bag and converted into parcel. Served the parcel with my seal bearing letters NS. DSP Sahib put his one seal bearing letters KSS and attested the parcel under his signature. Sample seal was prepared separately on the paper. DSP Sahib affixed his seal bearing letters KSS on sample seal also and attested the same under his signature. After use, I handed over my seal to ASI Kulwinder Singh No.256/Mohali. DSP Sahib kept his seal with himself. Thereafter, I, ASI took the parcel of recovered intoxicant tablets duly sealed



with seal bearing letters NS/KSS along with sample seal in police possession through separate recovery memo. Memo was prepared and obtained the signatures of witnesses. Above mentioned Sukhdeep Singh @ Sukhi Bhatra has committed offence under Section 21-22-61-85 NDPS Act by keeping in intoxicant tablets in his possession. Therefore, ruqa has been typed against above mentioned Sukhdeep Singh @ Sukhi Bhatra under said section and same is being sent to the police station by hand through C. Hussainpreet Singh No.1993/Mohali. After registration of case I may be intimated case number. Senior Officers and Control Room be informed through telephone. Special report be issued. I, ASI along with companions am busy in investigation at the spot. In the area of: Opposite CIA Bhagat Ghat, T-Point Road, Kharar to Chandigarh at: 12.05 AM. Sd/- Narinder Singh, ASI, Police Station City Kharar dated 10.9.2023."

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. He submits that as per allegations 2020 loose intoxicating tables have been recovered with no batch number and manufacturing date, expiry date and price, therefore, there is no authenticity of the alleged recovery from the petitioner. He further submits that the investigation in this case is complete as challan stands presented on 08.01.2024 charges stands framed on 14.05.2024 and out of 08 prosecution witnesses only 1 PW has been examined so far, meaning thereby conclusion of trial will take long 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. According to which, the petitioner is behind bars for 1 year, 6 months and 7 days.



Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender as he involved many other FIRs.

4. Analysis

Be that as it may, from the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 1 year, 6 months and 7 days, there was recovery of loose tablets, therefore, possibility of false implication cannot be ruled out 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 08.01.2024 charges stands framed on 14.05.2024 and out of 08 prosecution witnesses only 1 PW has been examined so far, which is sufficient for this Court 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 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.

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.

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

20.03.2025
anuradha

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