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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15374-2025

DATE OF DECISION: 02.04.2025

GURMEET SINGH

...PETITIONER

Versus

UNION OF INDIA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Salana, Advocate for the petitioner(s).
Mr. Rajiv Sharma (Hisarwale), Advocate
Special Public Prosecutor (NCB) with
Ms. Indu Bala, Advocate and
Mr. Shubham Chauhan, Advocate for the respondent.

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 483 of the Bharatiya Nyaya Sanhita, 2023 for grant of regular bail to the petitioner in case of CRIME NO. 04/2024 dated 08.04.2024, under Sections 8, 18, 23 & 29 of NDPS ACT, 1985, Narcotics Control Bureau, Chandigarh, jurisdiction of P.S. Sahnewal, Ludhiana.

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

‘On 08.04.2024 at about 10:30 Hrs. information was received by Vivek Kumar, Sub-Inspector, NCB, Chandigarh that a two suspect Consignments bearing AWB No. 1243054142 and AWB No. 1243052790, shipment date 06.04.2024 are lying at DHL 55 GT road, Dhandhari Khurd Road, Ludhiana and were booked by one Manpreet Singh S/o Darshan Singh R/o Vill-Patti Jagga, Kokri Kalan, Moga, Punjab. The above mentioned information



was reduced into writing by Vivek Kumar Sub-Insp, NCB, Chandigarh where he also further stated that if the parcels be checked than Narco substance can be recovered. The same was then forwarded to Smt. Meera Kumari Meena, Superintendent, NCB, Chandigarh who then formed, a team, consisting of Sh. Amar Shankar, 10, (Seizing), Sh. Rakesh Kumar, 10 (CO-10), Sh. Jitender Kumar, Sepoy, and Sh. Mukesh Mavai, Sepoy for taking action as per law. Further, Sumit Saini, JIO was detailed as the Investigation Officer of the case. Accordingly, the above mentioned team of NCB reached DHL, 55 GT Road, Dhandhari Road Khurd, Ludhiana (PB)-on 08.04.2024. On reaching at the said place, two persons named Mahender Kumar s/o Shiv Charan, and Mayank Chauhan s/o Kunwar Pal Singh were associated as independent witnesses. In presence of both the independent witnesses the both consignments AWB No. 1243054142 & AWB No. 1243052790 were bought. On observation it Was found that the consignee of the one parcel was Karamvir Singh Deol, 15 Singh Trails, Winipeg MB, Canada and mentioned sender's Mobile No. 95307 49983 second parcel Kamaldeep Singh, 5186 Dunster RD # 101nanaimo, BC Canada. Sender was Manpreet Singh son of Darshan Singh resident of Village Patti Jagga, Kokri Kalan, Moga Punjab and in Receiver's name & address and consignment it was photocopies of Aadhar Card No. 7184 0365 4132 and PAN Card No. FFBPS9854H were attached and both ID Cards have signatures of Manpreet Singh. Thereafter, parcel weighing 3.4 Kg was opened, which was one Kartoon box of brown colour, wrapped in Brown Tape. On opening it was found that the in the Kartoon box, on top there was a packet of sweets, on which Dhoda Sweets was written, on checking the same sweets were found and on removing packet of sweets, two boxes of Dabar Chawanprash and one white & two black colour empty polythene were found. On opening both the boxes of Dabar Chawanprash one by one, two packets of transparent polythene were found from the boxes, one packet from each box. Both packets were cleaned, which were soaked in Chawanprash. After cleaning & opening, on checking both the packets, sticky substances of dark brown colour were found. Little



quantities of the substance were taken from both the packets and on checking with the Drug Detection Kit, brought along with us, it was found to be positive for opium. Then on weighing both the packets of opium, were found to be 134 gms. Thereafter the other Karton weighing 4.4 Kg was opened, which was in one brown colour Karton box, Annexure P-2 wrapped in Brown Tape. On opening the Karton box it was found that first of all, at top there was a packet of Dhoda sweets, on which Dhoda Sweets was written, after removing the sweets packet, three boxes (two 1-1 Kg each & one of ½ Kg) of Chawanprash (Dabar), two small towels, 3 T-shirts of small kids & 3 Pents were found. On opening all three boxes of Dabar Chawanprash one by one, three packets of transparent polythene were found from the boxes, one packet from each box placed along with Chawanprash. These packets were cleaned from Chawanprash. After cleaning & opening, on checking all three packets, sticky substances of dark brown colour were found. Little quantities of the substance were taken from both the packets and on checking with the Drug Detection Kit, it was found to be positive for opium. Then on weighing all three packets of opium was found to be 298 gms. On dated 09.04.2024, NCB team visited the house of Gurmeet Singh S/o Sadhu Singh R/o Sardwan, Dist. Faridkot for the house search Gurmeet Singh S/o Sadhu Singh apprehended and issues notice U/s 67 of NDPS Act 1985. On same day dated 09.04.2024, NCB team visited MSG World wild courier services in Kot Kapura the employee Ram Kumar @ Arman S/o Sh. Sharman Jeet Singh R/o Bagha Purama, Mistrion wali Gali Dist.- Moga PB of MSG World wild courier services from where the parcel was booked. Ram kumar, the owner of that courier services provided the details of persons who came for booking the consignment bearing AWB no. 1243054142 and met Ram kumar, who was the owner of that office. Further he provided CCTV footage along with 65B certificate of the parcel booked by the above said persons. He also provided the documents related to the booking of the above said parcels AWB No. 1243054142 & 1243092790 U/s 67 of NDPS Act 1985. A notice u/s.67 of NDPS Act was issued to Akashdeep S/o Om



Prakash R/o Adarsh Colony Muzaffarnagar UP (employs of MSG World wild courier services) on 10.04.2024 and his voluntary statement was recorded at NCB Office Mohali on the same day wherein he admitted and disclosed that petitioner booked the parcel for Canada on dated 05.04.2024. Further he provided of the parcel booked by the above said persons. He also told that he also told that after seeing Gurmeet Singh S/o Sadhu Singh photo, the above person recognized him and said that he was the same person who had come with his friend to book a parcel. He also provided the documents related to the booking of the above said parcels. On 09.04.2024 notice u/s 67 of NDPS Act was issued to Gurmeet Singh S/o Sadhu Singh and his voluntary statement was recorded on the Next day i.e. 10.04.2024 and the petitioner was arrested on 10.04.2024 at 1500hrs. During remand voluntary statement of Gurmeet Singh S/o Sadhu Singh was recorded u/s 67 of NDPS Act 1985. He disclosed that Harmanjeet Singh S/o Paramjeet Singh @Pamma R/o Village Sarawan, Distt Faridkot. Punjab was also with him in booking the said parcel.'

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 no recovery has been effected from the conscious possession of the petitioner and the alleged recovered 0.432 kg. Opium is non-commercial in nature. He has further argued that the antecedents of the petitioner are clean. Moreso, the investigation in this case is complete as challan stands presented and out of 15 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 respondent**

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

He on instructions opposes the prayer for grant of regular bail stating that the petitioner used to send opium in the pack of Chawanprash for kabaadi players who were on tour participating in games at Canada.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 11 months and 19 days, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender added with the fact that the alleged recovery i.e. 0.432 kg. Opium is non-commercial in nature 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 has already been presented and out of 15 prosecution witnesses, none 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.

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

02.04.2025
anuradha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No