

2025.PHHC:046800



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

**CRM-M-16093-2025
DECIDED ON: 05.04.2025**

GURPREET SINGH ALIAS GORI**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

SANDEEP MOUDGIL, J (ORAL)**1. Relief**

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in FIR No. 97 dated 25.06.2024 registered under Sections 21(c) & 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 at P.S. Jaitu, District Faridkot.

2. Facts

Facts as narrated in the FIR reads as under:-

“SHO, Police Station Jaito 'Jai Hind'. Today, I, SI along with SI Jaskaran Singh 1007/Faridkot, Havaladar Gurpiar Singh 571/Faridkot, Sepoy Rohit Sharma 360/Faridkot (Computer Operator), Sepoy Akashdeep Singh 616/Faridkot in connection with checking and search of suspected persons riding government vehicle bearing No. TS-15-TR-0727 which was driven by P.H.G. Jarnail Singh 32512, CIA Staff Unit, Jaito were going to Rodikpura, in the area of Village Rameana to Village Kotli turning road towards Canal Bridge, nakabandi was being done. Then time about 03:15 PM that from the side of Village Kotli one motorcyclist was coming, two clean shaved persons

were riding the motorcycle. On seeing the Police Party driver of the motorcycle suddenly turned the motorcycle and tried to run away then the motorcycle fell down then I SI along with the help of staff employees, motorcyclist was controlled who was having a black color backbag on his shoulder in the middle. I, SI, asked the apprehended persons their name and address. Then the driver of motorcycle told his name as Lovedeep Singh alias Balveer son of Sewak Singh son of Jarnail Singh resident of Mahima Sawai, District Bhatinda and the person sitting back of the motorcycle told his name as Ravi Singh son of Kulwant Singh son of Ajaib Singh, resident of Mahima Sawai, District Bathinda. Then I, SI apprised myself to motorcyclist Lovedeep Singh alias Balveer above and accompanying staff and told that, I, ASI Angrej Singh No. 442/Faridkot, CIA Staff Unit, Jaito is serving as a Investigating Officer. I have doubt on you and the motorcycle Marka Hero HF-Deluxe bearing No. PB-03-BC-7019 color black of having some narcotic substance in the black backbag in your possession. But you have legal right that you can get search yourself and the black backbag in your possession from a Magistrate or a Gazetted Officer who can be called immediately at the spot or you can be brought to them. On which the driver of the motorcycle Lovedeep Singh alias Balveer above told that he want to be searched by a Gazetted Officer of the black backbag kept in middle of the motorcycle. Upon which I, SB issued memo of dissent under Section 50 NDPS Act by getting typed and taking print out, which was signed by accused Lovedeep Singh alias Balveer in Punjabi and signature of SI Jaskaran Singh 1007/Faridkot and Havaldar Gurpiar Singh 571/Faridkot were got done as witnesses. Then I, SI apprised myself and the staff employees to the person sitting on the back of the motorcycle and told that "I, ASI Angrej Singh No. 442/Faridkot, CIA Staff Unit Jaito is serving as Investigating Officer. I have doubt on you and the motorcycle Marka Hero HF-Deluxe bearing No. PB-03-BC-7019 color black of having some narcotic substance in the black backbag in your possession. But you have legal right that you can get search yourself and the black backbag in your possession from a Magistrate or a Gazetted Officer who can be called immediately at the spot or you can be brought to them. On which the driver of the motorcycle Lovedeep Singh alias Balveer above thought some time and told that he want to be searched by a Gazetted Officer of the black backbag kept in middle of the motorcycle. Upon which I, SB issued dissent memo under Section 50 NDPS Act by getting typed and taking print out, which was signed by accused Lovedeep Singh alias Balveer in Punjabi and signature of SI Jaskaran Singh 1007/Faridkot and Havaldar Gurpiar Singh 571/Faridkot were got done as witnesses. Then I, SI from my Mobile No. 80541-04287 called at Phone No.75270-17100 time about 03:46 District Police Control Romm motorcycle and briefed about the situation and informed about sending Gazetted Officer at the place of occurrence. On which time about 04:50 P.M. Sh. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito riding government vehicle bearing No. PB-04-V-6036 the driver of which Lovepreet Singh/Gunman 744/Faridkot along with staff employees reached at the place of occurrence. I, SI briefed about the situation of the place of occurrence to them. On which Sh. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito asked the apprehended persons their name and address. Motorcyclist told his name as Lovedeep Singh alias Balveer son of Sewak Singh son of Jarnail Singh, resident of Mahima Sawai, District Bathinda and second

person told his name as Ravi Singh son of Kuldeep Singh son of Ajit Singh resident of Mahima Sawai, District Bathinda. Then Sh Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito apprised himself and his staff employees to the accused and told I am Sukhdeep Singh, PPS, Deputy Superintendent of Police, Jaito. I have doubt on you and the motorcycle Marka Hero HF-Deluxe bearing No. PB- 03-BC-7019 color black of having some narcotic substance in the black backbag in your possession. But you have legal right that you can get search yourself and the black backbag in your possession from a Magistrate or a Gazetted Officer who can be called immediately at the spot or you can be brought to them. On which the driver of the motorcycle Lovedeep Singh alias Balveer above thought some time and told that he do not want to be searched by a Magistrate or Gazetted Officer of the black backbag kept in middle of the motorcycle. I have confidence on you. I want to get search of me and the black color backbag laying on the motorcycle from you. Upon which Sh. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito issued memo of consent under Section 50 NDPS Act by getting typed and taking print out, which was signed by accused Lovedeep Singh alias Balveer in Punjabi and signature of SI Jaskaran Singh 1007/Faridkot and Havaladar Gurpiar Singh 571/Faridkot were got done as witnesses. Then I, SI apprised myself and the staff employees to the person sitting on the back of the motorcycle and told that "I, ASI Angrej Singh No. 442/Faridkot, CIA Staff Unit Jaito is serving as Investigating Officer. I have doubt on you and the motorcycle Marka Hero HF-Deluxe bearing No. PB-03-BC-7019 color black of having some narcotic substance in the black backbag in your possession. But you have legal right that you can get search yourself and the black backbag in your possession from a Magistrate or a Gazetted Officer who can be called immediately at the spot or you can be brought to them. On which Ravi Singh above accused thought some time and told that I do not want to be searched by any Magistrate or Gazetted Officer the black backbag kept in middle of the motorcycle. I have confidence on you. I want to get search ourselves and the black color backbag laying on the motorcycle from you. Upon which Sh. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito issued memo of consent under Section 50 NDPS Act by getting typed and taking print out, which was signed by accused Lovedeep Singh alias Balveer in Punjabi and signature of SI Jaskaran Singh 1007/Faridkot. Sh. Sh. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito attested the same. Then I, SI tried to make private party as witness from the commuters at the place of occurrence, but no one agreed to join as witness telling their compulsion. That is why no private witness joined the police party. Then on the instructions of Sh. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito, I, SI started search of accused Lovedeep Singh alias Balveer and Ravi Singh and the motorcycle Marka Hero HF-Deluxe bearing No. PB- 03-BC-7019 color black backbag. On checking narcotic pills strips were recovered, which were taken out from the black color backbag and strips were counted. On counting total 1020 narcotic pills strips were found. On each strip 10/10 narcotic pills, total 10,200 narcotic pills were recovered. On each recovered strips NRx Tramadol Hydrochloride Tablets USP 100 mg Tramowell-100 Tablets and B. No. T 240205 MGF FEB 2024 EXPIRY JAN 2026 M.R.P. Rs. 225.00 PER 10 TABS 1.0A. T. was written. From accused Ravi Singh and Lovedeep Singh alias Balveer above total

10,200 narcotic pills Marka Tramowell-100 Tablets were recovered. Then I, SI asked the accused Lovedeep Singh alias Balveer and Ravi Singh above for keeping narcotic pills in their possession, but accused could not produce any permit or licence for keeping narcotic pills in their possession. Then on instructions of Sh. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Jaito, is transacted the recovered narcotic pills in the same black color backbag and prepared parcel and affixed with my seal impression 'AS' and sample seal was also sealed with the word 'AS' and after use seal was handed over to Jaskaran Singh 1007/Faridkot. And from checking of above motorcycle no document regarding ownership of Motor cycle was found. Then Sh. Sukhdeep Singh, PPS Deputy Superintendent of Police, Sub Division, Jaito sealed the above parcel with the word 'SS' and sample seal was also sealed with the word 'SS' attested the same. After use retained the seal with him. Then I, SI took the parcel of recovered narcotic pills and above-mentioned motorcycle in police possession by preparing seizure memo. On seizure memo SI Jaskaran Singh 1007/Faridkot and Havaladar Gurpiar Singh 571/Faridkot put their signatures as witnesses. Sh. Sukhdeep Singh, PPS Deputy Superintendent of Police, Sub Division, Jaito attested the seizure memo. Then I, SI on the instructions of Sh. Sukhdeep Singh, PPS Deputy Superintendent of Police, Sub Division, Jaito started the physical search of accused Lovedeep Singh alias Balveer as per rule, who took out two notes of Rs. 200/- Indian currency, total Rs.400/- from the back pocket of his jean pant and submitted to me and no other item, jewellery has given to me. Rs.400/- was taken into police custody without any reason as a proof. After that physical search was completed. On seizure memo Lovedeep Singh put his signature in Punjabi and SI Jaskaran Singh 1007/Faridkot and Havaladar Gurpiar Singh 571/Faridkot also put their signature as witnesses. Then on the instructions of Sh. Sukhdeep Singh, PPS Deputy Superintendent of Police, Sub Division, Jaito started the physical search of accused Ravi Singh. Who took out a Vivo Mobile Phone color white (silver) from the front Jean pant and two Rs. 100/- notes Indian currency and submitted to me. Except this no valuable item, jewellery, documents etc was handed over to me. Vivo Mobile color white (silver) was taken into police custody without any reason as a proof. On seizure memo Ravi Singh put his signature and SI Jaskaran Singh 1007/Faridkot and Havaladar Gurpiar Singh 571/Faridkot also put their signature as witnesses. Then Sh. Sukhdeep Singh, PPS Deputy Superintendent of Police, Sub Division, Jaito also enquired the accused Lovedeep Singh alias Balveer and Ravi Singh. After proceeding time about 06:30 PM I, SI as per instruction started to the place of occurrence. The accused Lovedeep Singh alias Balveer and Ravi Singh above have committed offence under Section 22 (c), 61, 85 of NDPS Act for keeping 10,200 narcotic pills in their possession. For which complaint against Lovedeep Singh alias Balveer son of Sewak Singh son of Jarnail Singh resident of Mahima Sawai District Bathinda and Ravi Singh son of Kulwant Singh son of Ajaib Singh resident of Mahima Sawai, District Bathinda has been written and is being sent to Police Station for registering FIR by hand through Akashdeep Singh 616/Faridkot. Special reports be sent to the services of Ilaka Magistrate and higher officials. Information be given to PCR Faridkot. I, SI along with staff employees starts to the place of occurrence. Sd/Angrej Singh, ASI, CIA, Staff Unit Jaito. Dated 25.06.2024. Today, in the area of Rameana time 06:40 PM. Today on receipt of complaint at the Police Station, FIR against the above accused be registered

through CCTNS, copy of the FIR along with original complaint is being sent to the place occurrence by hand through Ct. as per rule. Copies of FIR's with special reports are being sent to the services of Hon'ble Ilaqa Magistrate Sahib and higher officials. Wireless message is being sent to PCR Faridkot."

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 on the basis of disclosure statement of co-accused persons namely Lovedeep Singh @ Balvir and Ravi Singh, who were riding on motorcycle bearing No.PB-03-BC-7019 and from whom the 10200 tablets Nrx Tramadol Hydrochloride USP 100 mg "Tramadol Hydrochloride" were recovered.

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 9 months and 6 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that after the disclosure and nomination of the petitioner as an accused 500 tablets of Tramadol stands recovered from the petitioner.

4. **Analysis**

Considering the custody period undergone by the petitioner i.e., 9 months and 6 days and is not involved in any other case, as is evident from the perusal of the custody certificate, except in one case i.e., FIR No.74 dated 31.05.2018, under Sections 61, 78, 1, 14 of Excise Act, registered at Police Station Gidder Baha, in which he is on production warrants. Moreover the quantity of contraband recovered from the petitioner i.e., 500 tablets of

tramadol is non-commercial in nature added with the fact that investigation is complete, challan stands presented on 03.12.2024, charges have been framed on 24.01.2025 and out of total 24 prosecution witnesses, none has been examined so far. This Court is sanguine of the fact that conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind bars for uncertain period, wherein “*bail is a rule and jail is an exception*” and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of 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.

As far as the contention of learned State counsel with regard to 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 on 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.

05.04.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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