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2025:PHHC:046256



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

**CRM-M-17628-2025
DECIDED ON: 04.04.2025**

NAVEEN KUMAR ALIAS AJU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Navraj Singh, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This is a third Petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer for granting regular bail pending trial in case FIR No. 118 dated 26.10.2021 under Sections 21/22/29 of the Narcotic Drugs and Psychotropic Substances Act, Police Station Sadar Phagwara, District Kapurthala (Annexure P-1) and any further order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in the interest of justice and equity.

2. Facts

Facts as narrated in the FIR reads as under:-

“Stated that I being investigating officer am posted at CIA Staff, Phagwara. Today I the A.S.I. Swaran Singh 1177/KPT, A.S.I. Nirmal Kumar 1162/KPTT,

Constable Jaskaran Singh 201/KPT, Constable Paramjit Kumar 1610/KPT in a private vehicle was going from N.R.I. Colony to Green Valley for the purpose of checking suspected vehicles and suspected persons. When the police party was at a distance of 100 meters from Green Valley, then a young person having his hair cut was seen coming from the side of N.R.I. Colony on a black coloured Active, who was signaled to stop by getting stopped his vehicle, who on seeing the police party, started taking u-turn of his Active, to whom I the ASI. apprehended with the help of accompanying police officials on the basis of suspicion and asked his name and address, who told his name as Naveen Kumar alias Aju son of Biharn Lal resident of Mehli Gate, Nigaha Mohalla, Phagwara, Police Station City Phagwara, now resident of N.R.I. Colony, Phagwara, District Kapurthala and one small black coloured bag was hanged on the hook affixed on the front side of seat of his Active, to whom, it was asked about the black coloured bag to the effect that what is in the black coloured bag, who couldn't give any satisfactory reply. There is a suspicion of having some intoxicant substance in the small black coloured bag was hanged on the hook affixed on the front side of seat of his Activa, on which I the A.S.I. gave information to the Incharge, C.L.A. Staff, Phagwara on mobile phone that investigation officer (competent authority) may please be send on the spot, on which you along with police party have reached on the spot, action may please be taken, Statement is heard, which is correct. Sd/- Paramjit Kumar ASI, CIA Staff, Phagwara, dated 26.10.2021, attested Sd/- Sukhwinder Kumar ASI, CIA Staff, Phagwara dated 26.10.2021. Police Proceedings: Today I the ASI was present at C.L.A. Staff, Phagwara when Incharge, C.L.A. Staff, Phagwara had informed me that a phone call of A.S.L. Paramjit Singh 554/KPT has been received to the effect that he along with his accompanying police officials have apprehended one young person having his hair cut on Green Valley link road while he was taking u-turn of his Activa and I the A.S.I. had apprehended him with the help of accompanying police officials on the basis of suspicion. Please reach on the spot for taking action, on which I the [A.S.I.](#) along with A.S.I. Darshan Singh 119/KPT. Constable Balwinder Singh 538/KPI in a Government vehicle bearing laptop and printer have reached on the spot for taking action, where, the A.S.I. Paramjit Singh 554/KPT got recorded his above mentioned statement. By reducing into writing his statement, contents of the same were read over to him, who appended his signatures on his statement by declaring his statement as correct, which was verified by me. The A.S.I. Paramjit Singh along with party was joined investigation. I the A.S.I. had asked name and address of the apprehended young person, on which the apprehended person told his name as Naveen Kumar alias Aju son of Bihari Lal resident

of Mehali Gate, Nigaha Mohalla, Phagwara, Police Station City Phagwara, now resident of N.R.I. Colony, Phagwara, District Kapurthala. Prior to checking the black coloured bag hanged on the hook affixed on the front portion of seat of his Aactiva, attempt was made to join a public witness to the police party, but none joined the police party and each and every person had left from the spot by showing his difficulty. Then I the A.S.I. checked the black coloured bag hanged on the hook affixed on the front portion of seat of his Aactiva by opening it in the presence of accompanying police officials, from which two heavy weight polythene carry bags were recovered. On opening one heavy weight polythene carry bag out of the recovered polythene carry bag, Heroin was recovered from it. On weighing the recovered Heroin with a digital computerised weighing machine, the same was found to be 50 grams. Then by putting the Heroin in a separate plastic box, stamped/sealed the same with my stamp/seal of words 'S.K.' and thereafter, checked the second heavy weight polythene carry bag, on which 12 intoxicant injection without mark were recovered. Then by putting the same in a separate plastic box, prepared its parcel and stamped/sealed the same with my stamp of word Sample seal was prepared separately and on conducting search of Aactiva bearing number PB-36H-8452 of black colour, one computerised weighing machine and an amount of Rs. 06 lakhs 80 thousand (drug money) was recovered from the polythene carry bag placed in its diggy, separate parcel of which was prepared. By putting parcel of plastic box containing the case property of Heroin weighing 50 grams and 12 intoxicant injections without mark in a parcel of plastic box, one computerised weighing machine and parcel of an amount of Rs. 06 Lakhs 80 thousand (drug money) duly stamped/sealed with stamp/seal of words 'S.K.' along with Aactiva number PB-36H-8452 of black colour were taken in police custody as evidence/proof. Seal after use was handed over to the A.S.I. Paramjit Singh 554/KPT. The above mentioned apprehended person has committed offence punishable under Sections 21/22-61-85 of NDPS Act by keeping 50 grams of heroin and 12 intoxicant injections in his possession. Thus, the present complaint is being sent through Jaskaran Singh 201/KPT to the Police Station Sadar, Phagwara for registration of a case. After registration of a case, its number should be intimated. By issuing special reports, the same may please be send to the higher police officials. Information to the control room should be send through wireless message. I the ASI along with accompanying police officials am busy in investigation on the spot. ”

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 further submits that as per the case of the prosecution 12 intoxicant injections each containing 24 ml Bupreorphine Hydrochloride and 50 grams of heroin was recovered from the petitioner. He contends that investigation is complete, challan stands presented and nothing is to be recovered from 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.

Learned State Counsel prays for dismissal of the present petition stating that the petitioner is involved in various other cases, meaning thereby, he is habitual offender. Additionally he submits that the contraband recovered from the petitioner falls under the commercial category and therefore, rigours of Section 37 of NDPS would be attracted.

4. Analysis

Be that as it may, considering the sufficient period undergone by the petitioner i.e., 1 year 7 months and 18 days added with the fact that investigation is complete, and after framing of charges on 21.11.2023 out of total 13 prosecution witnesses, only 3 have been examined so far, which is sufficient for this Court to infer that conclusion of trial shall take considerable time, therefore, this Court is of the view that no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would curtail right of the petitioner 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.

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.

(SANDEEP MOUDGIL)
JUDGE

04.04.2025

Meenu

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