

2025:PHHC:046250



225

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-17554-2025  
DECIDED ON: 04.04.2025

CHARNJEET @ JITU

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dharamveer Banyal, Advocate  
for the petitioner.

Mr. Chetan Sharma, DAG Haryana

**SANDEEP MOUDGIL, J (ORAL)**

**1. Prayer**

This petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail in FIR No. 28 dated 22.01.2025 registered under Section 20(b)(ii)B of NDPS Act, 1985 registered at Police Station Rohtak City, District Rohtak (Haryana).

**2. Facts**

Facts as narrated in the FIR reads as under:-

*“To SHO Sir, City Police Station, Rohtak, Jai Hind. Today I, ASI Sanjeet Kumar 1257 along with colleagues Ct Updesh 389, EHC Rakesh 1444, L/CT Jyoti 1426 laptop acer printer HP with government vehicle HR12GV 3831 driver ESI Rajesh 506 RTK was present in connection with search of narcotics at Ramlila Padav near old bus stand, Rohtak. That a special informer met me and informed that Charanjeet alias Jeetu son of Ramdhari resident of old bus stand, Ramlila Padav, Rohtak deals in narcotics. Even*

today also he alongwith narcotics is standing in his lane near Ramlila Padav alongwith narcotics and is selling the same. He is wearing a blue jacket with red strip and black pyjama. If an immediate raid is conducted, then he can be caught alongwith narcotics. The information being found true, reliable and believable, he informed his fellow employees about the information and prepared a notice under 42 NDPS Act and to get a report registered, he sent the same through L/CT Jyoti 1426 to city police station, Rohtak, then after freeing the special informer, the said ASI along with his staff reached near old bus stand on Government Vehicle at the disclosed place, Ramlila Padav, Rohtak, where as per the information given by the special informer, a man was seen standing wearing a blue jacket with a red stripe and black pyjama. He was carrying a yellow and brown coloured bag in his right hand. Then ASI, with the help of his fellow employees, overpowered him and asked his name and address. The said person told his name and address as Charanjeet alias Jeetu son of Ramdhari resident of old bus stand, Ramleela Padav, Rohtak. The ASI gave a separate written notice u/s 50 NDPS Act to him and thereafter readout the gist of the notice, told him that I am ASI Sanjeet Kumar 1257/RTK ANC Staff posted at Rohtak. I have received information that you Charanjeet alias Jeetu son of Ramdhari resident of old bus stand, Ramleela Padav, Rohtak have narcotic substances and I am fully confident of this, so, it is necessary to search you and the bag you have. As per 50 NDPS Act, you have the legal right that you can get yourself searched by the nearest area magistrate or any gazetted officer who can be called on the spot or you can be taken to them. The suspect Charanjit and the witness signed the notice. The suspect Charanjit, mentioned above, told that he is educated up to 7th standard and replied in writing that I am Charanjit alias Jeetu s/o Ramdhari resident of Ramlila Padav near old bus stand, Rohtak. I have read and understood the notice given to me under section 50 of NDPS Act. I want myself and the bag in my hand to be searched in front of a gazetted officer who should be called on the spot. The suspect Charanjit, mentioned above, and the witnesses signed this reply to notice. The ASI contacted gazetted officer Shri Dalip Singh DSP, Rohtak on his mobile number 7082999108 from his mobile number 8059710004 and informed him about the situation and requested him to come on the spot. After some time, L/CT Jyoti 1426 after getting the daily dairy report registered, at City Police Station, Rohtak came to the spot and handed over the report No. 26 dated 22.01.25 to the ASI, which was kept. After some time, the gazetted officer Shri Dalip Singh DSP Rohtak came to the spot. He told his name and designation to everyone

*present at the spot and as per the orders of the gazetted officer Shri Dalip Singh DSP Rohtak, the search of ASI Sanjeet Kumar 1257/RTK ANC Rohtak was carried out by the independent witness Inderjeet son of Banarasidas resident of Ramleela Padav, Rohtak. During his search, no suspicious item was found which could be taken into possession as per the search. Then a search memo in this regard was prepared. The suspect Charanjit and the witnesses have signed on it. The above mentioned gazetted officer verbally ordered the ASI to search the suspect Charanjit. The search of Charanjit alias Jeetu son of Ramdhari resident of Old Bus Stand, Ramlila Padav, Rohtak was carried out by ASI Sanjeet 1257 as per the orders of gazetted officer Shri Dalip Singh DSP Rohtak. During the search, the yellow and brown coloured bag held in the right hand of the suspect Charanjit alias Jeetu son of Ramdhari resident of Old Bus Stand, Ramlila Padav, Rohtak was opened and checked by the ASI in front of gazetted officer Shri Dalip Singh DSP Rohtak. As per my experience, ganja was found inside the bag. The ganja was taken out of the bag and weighed and it was found 1 kg 380 grams. The ganja was separately put in a waxy polythene which was further packed in a separate white cloth and a parcel was prepared. A separate parcel was prepared of the said empty bag of yellow and brown colour. Each parcel was stamped by putting 5 stamps of "SK" and sample seal was prepared. Thereafter he handed over his seal to CT Updesh 389/RTK. The parcel 1Kg 380 grams of ganja and the yellow and brown coloured bag were also stamped by the gazetted officer Shri Dalip Singh DSP Rohtak by putting one stamp of AK on each bag and after the sealing, the seal was kept with him. The parcel 1Kg 380 grams of ganja and the yellow and brown coloured bag were taken into police possession as evidence vide a memo. The above-mentioned accused Charanjit and the independent witness Inderjit son of Banarasidas resident of Ramlila Padav, Rohtak signed the said memos. The Parcels, sample seal and memos were verified by the gazetted officer Shri Dalip Singh DSP, Rohtak. DSP sahab left the spot. The proceedings were videographed on e-evidence app. The suspect Charanjit alias Jeetu son of Ramdhari resident of old bus stand, Ramlila Padav, Rohtak has committed the crime under section 20(b) (ii) (B) of NDPS Act by having 1 kg 380 grams of ganja in his possession, regarding which a report has been lodged with the police station. After registering the FIR, its number be informed and the special report of the case be sent to Afsaran Bala and the next investigator should be sent to the spot. Today Ramlila Padav near old bus stand, Rohtak.'*

**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 and the alleged recovery of 1 kg 380 gms of ganja is marginally over and above the small quantity. He further submits that the investigation in the matter is complete, challan stands presented and nothing is to be recovered from the petitioner, who is not involved in any other case.

**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 2 months and 10 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that 1 kg 380 gms of ganja has been recovered from the petitioner, therefore, he does not deserve the concession of bail.

**4. Analysis**

Considering the custody period undergone by the petitioner i.e., 2 months and 10 days and is not involved in any other case, as is evident from the perusal of the custody certificate, meaning thereby he is a person of clean antecedents and alleged recovery of contraband is marginally over and above the small quantity added with the fact that investigation is complete, challan stands presented on 18.03.2025, charges are yet to be framed and total 16 prosecution witnesses are to be examined. 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.

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*

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