



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

243

CRM-M-19453-2025

DATE OF DECISION: 22.04.2025

SONU SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Manoj R. Sharma, 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 FIR No. 95 dated 02.07.2024, Under Sections: 20(b), 27-A NDPS Act, and Section 29 added lateron at Police Station Dinanagar, District Gurdaspur.

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

‘TO SHO dated 1.07.2023 1 ASI including ASI Harjit Singh 442, CT Gagandeep 270, CT Gagandeep Singh 279 on our government Venicle No. PB 65 BG 9224 were patrolling in connection with the checking of miscreants and vehicles, and when we reached Sugar Mill Paniar National Highway Naka, where HC Manpreet Singh 274 and PHG Surjan Singh 350, who had already posted for Naka in front of Sugar Mill Paniar, also



joined the police party and started checking vehicles coming from Pathankot side. While checking, on 02.07.2024 at around 1:10 AM from Pathankot side, a car colour white brand Swift number DL. 5 CJ 2780 was seen coming. The person who was driving the car suddenly panicked on seeing the blockade of the police party, slowed down the car, stopped it and started turning the car backwards. I saw that there were four men inside the car and they were apprehended. The driver of the car disclosed his name as Sonu Singh son of Narinder Singh resident of village Jagatpur police station Chabal district Taran Taran, the person sitting next to the driver of the car disclosed his name as Mangal Singh son of Satnam Singh. The persons sitting on the back seat disclosed their names as Balraj Singh son of Massa Singh and Jobanjit Singh son of Jarnail Singh. I disclosed my name, identity and rank to the apprehended accused and gave notice to the accused under section 50 of NDPB Act while stating that I suspect that there is something objectionable in your car thus you along with the car in your possession are to be searched but you have the legal right to have your search conducted by a Magistrate or a gazetted officer to which the apprehended persons said that we have full confidence that you can search our car. Of which further consent memos were prepared and Sonu Singh, Mangal Singh, Balraj Singh and Jobanjit Singh signed the same. Before searching the said car, an attempt was made to join a public witness, but everyone stated their legitimate compulsion. Whereupon the ASI in the presence of fellow employees conducted a search of the said white car Swift No. DL 5 CJ 2780 in front of them, then from the dash board of the car, a black polythene was found containing charas and 100/100 Indian currency notes. On asking them about Indian currency notes, they disclosed that same were obtained by selling charas to customers. Then ASI weighed the recovered charas on the electronic weighing scale and the same came to be 408 grams including the weight of the polythene. Then recovered 100/100 currency notes were counted and the same being 250 in



number the total recovered number came to be Rs 25,000/-.
Thus, the accused by keeping in their possession 401 grams of charas and 25,000/- drug money have prima facie committed offence punishable under section 20(b) and 27(A) of the NDPS Act 1985.'

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 nothing has been recovered from the present petitioner. He submits that in the present case the alleged recovery i.e. 401 gram of charas i.e. non-commercial in nature, along with Rs. 25000/- has been effected from the dash board of the car. He further submits that no other case under the NDPS Act is pending against him. He further contends that co-accused person namely Mangal Singh has already been granted concession of regular bail by this Court vide order dated 25.03.2025 passed in CRM-M-12045-2025. Moreso, the investigation in this case is complete as challan stands presented on 30.11.2024 charges stands framed on 27.02.2025 out of 19 prosecution witnesses, one has given up and 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 State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that the petitioner is habitual offender as he is involved in multiple FIRs which



are registered under Excise Act and IPC, though submits that no other case under the NDPS Act is pending against him.

4. Analysis

Be that as it may, considering the custody period suffered by the petitioner i.e. 09 months and 16 days; nothing has been recovered from the present petitioner as whatever recovery was effected that was from dashboard of the offending vehicle and also the fact that the quantity of recovered contraband is non-commercial in nature in addition to the fact that investigation is complete, challan stands presented to Court on 30.11.2024, charges have been framed on 27.02.2025 and out of total 19 prosecution witnesses, one has given up and none has been examined so far, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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

22.04.2025
anuradha

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