

2025.PHHC:056053



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

**CRM-M-21343-2025
DECIDED ON: 30.04.2025**

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

Present: Mr. G.S. Ghuman, Advocate
for the petitioner. (through Hybrid Mode).

Mr. Jaspal Singh Guru, AAG Punjab

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

The jurisdiction of this Court has been invoked under Section 483 BNSS, 2023 seeking regular bail to the petitioner in case FIR No. 08, dated 17.01.2024 U/s 21,22-61- 85, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, P.S.- Dakha, District Ludhiana, Punjab

2. Facts

Facts as narrated in the FIR reads as under:-

“Officer Incharge, Police Station Dakha, Jai Hind, I, ASI alongwith ASI Paramjit Singh No.684, CT Sandeep Singh No.395 and CT Gurbinder Singh No.377 through private vehicle, which was being driven by myself ASI, alongwith laptop printer were on patrolling duty and checking of vehicles of suspected persons at main Chowk, Mandi Mullanpur, then informant came near me, ASI and informed

that Chamkaur Singh son of Kulwinder Singh son of Dalip Singh and alias Jassa son of Jagtar Singh son of Jagdev Singh, resident of Rachin Police Station Sadar, Raikot and deal in sale of heroin and narcotic tablets. Today they are coming towards Mullanpur City for selling heroin and narcotics tables to their customers. If barricade Rakba Road, New Dana Mandi, Mullanpur is installed, then from above said Chamkaur Singh and Lovepreet Singh alias Jassa heroin and narcotics tablets in large quantity can be recovered. The information is confirmed and reliable. Selling of heroin and narcotics tablets by Chamkaur Singh and Lovepreet Singh alias Jassa, offence under Sections 21, 22, 61, 85 of NDPS Act is made out. Written message for registration of FIR against Chamkaur Singh and Lovepreet Singh alias Jassa through CT Gurbinder Singh No.377 is sent to Police Station. Report to Inspecting Officer under Section 42 of NDPS Act has been given. After registration of FIR its number be intimated. Intimation to District Control Room be given. Special reports be issued. Inquiry Officer at the place of incident be deputed. I, ASI, alongwith colleagues Police Official left for installing barricade at the site as per information given. Jurisdiction Main Chowk Mandi Mullanpur at 04.30 P.M. Sd/- Kuldeep Singh No.453 Police Station Dakha Dated 17.01.2023. On receipt of written message FIR against the above said Chamkaur Singh and Lovepreet Singh alias Jassa has been registered. Original written message alongwith copy of FIR through CT Gurbinder Singh No.377 has been sent to Inquiry Officer ASI Gursewak Singh No.237. Necessary formalities are being got completed. After issue of special reports have been sent to Senior Officers and Illaqa Magistrate for information through ASI Jagdev Singh No.231. Information to District Control Room is being given.'

3. Contentions:

On behalf of the petitioner

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further contends that the alleged

recovery of 220 intoxicating tablets was sent to the FSL, Ludhiana, and the FSL report (Annexure P-2) appears to be inconclusive. Specifically, the report fails to mention the quantity of Diacetylmorphine in Envelope No. 1, and similarly, the quantity of Buprenorphine Hydrochloride in Envelope No. 2 is also not specified.

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 1 year 3 months and 9 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the recovery effected falls within the category of commercial quantity. Therefore, rigour of Section 37 of NDPS Act would be attracted in this case.

4. **Analysis**

Considering the custody period undergone by the petitioner i.e., 1 year 3 months and 9 days, and he 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 the FSL report (Annexure P-2) appears to be inconclusive added with the fact that investigation is complete, challan stands presented on 21.03.2024, charges have been framed on 12.04.2024 and out of total 12 prosecution witnesses, only one 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 “Balwinder Singh versus State of Punjab and Another”, SLP (Crl.) No.8523/2024. Relevant paras of the said judgment reads as under:-

“7. An accused has a right to a fair trial and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution.

8. It is not for nothing the Author Oscar Wilde in “The Ballad of Reading Gaol”, wrote the following poignant lines while being incarcerated:

*“I know not whether Laws be right,
Or whether Laws be wrong;*

*All that we know who be in jail
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.”*

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.

30.04.2025

Meenu

**(SANDEEP MOUDGIL)
JUDGE**

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