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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22096-2025
DATE OF DECISION: 02.05.2025

MANKIRAT SINGH @ MANI ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Lakshay Bector, 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 of B.N.S.S for grant of regular bail in FIR No. 96, Dated 04.08.2024 Under Section 18-B of the Narcotic Drugs and Substances Act 1985, registered at Police Station Sarabha Nagar, District Ludhiana.

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

‘To the Station House Officer, Police Station Sarabha Nagar, Ludhiana. Jai Hind. Today, 1, ASI, along with ASI Gurdeep Singh No. 422/Ldh, S/Constable Gurpreet Singh No. 142/Ldh, S/Constable Ramandeep Singh No. 1932/Ludhiana, S/Constable Ranjit Singh No. 3419/Ludhiana, and Constable Baldev Singh No. 3807/Ludhiana, were present at a check point near Jhande Cut, near the railway line, Badowal, Ferozepur Road, Ludhiana, traveling in an official vehicle make Ertiga bearing registration



No. PB10-FV-5928, driven by S/Constable Rakesh Kumar No. 252/Ludhiana, in relation to search operations concerning suspicious individuals, suspicious vehicles, and narcotic smugglers. At around 12:15 PM, a Maruti Baleno car bearing registration No. PB08-ET-6293, silver grey in colour, was seen approaching from the Badowal side, which was being driven by a turbaned individual. I, ASI, signaled the driver to stop at the checkpoint. The said car driver stopped the vehicle approximately 10 to 15 steps before the checkpoint, turned the car around, and attempted to flee. At that moment, the car suddenly stalled. I, ASI, with the help of accompanying police personnel, chased and apprehended the above said car driver, made him step out of the vehicle, and inquired about his name and address. Upon questioning, he disclosed his name as Mankirat Singh alias Mani, son of Baldev Singh, resident of Patti Daffar Ki, Village Post Office Sarih, Police Station Sadar Nakodar, District Jalandhar. Thereupon, I, ASI, informed the said Mankirat Singh alias Mani, under Section 50 of the NDPS Act, that: "I, ASI Amarjit Kumar No. 1401/LDH, am posted at the Anti-Narcotic Cell, Ludhiana. I am wearing uniform, and my nameplate bearing my name is affixed on my worn uniform. I wish to conduct the search of you and the Maruti Baleno car bearing registration No. PB08-ET-6293, silver grey in colour, which is in your possession. You have the legal right that the search of your person and your vehicle can be conducted in the presence of a Gazetted Officer or a Magistrate, who can be requested to come to the spot without any delay." Upon this, the above said Mankirat Singh alias Mani stated to me, ASI, that: "I have faith in you, you may conduct the search of me and the Maruti Baleno car bearing registration No. PB08-ET-6293, silver grey in colour, which is in my possession." Thereafter, under Section 50 of the NDPS Act, I, ASI, got a notice typed by Computer Operator S/Constable Ramandeep Singh No. 1932/Ludhiana and got it printed with the help of a printer. The said notice was read aloud to the accused, who, after hearing the same, acknowledged its contents and signed it in English. The signatures of the witnesses were also obtained thereon.



Before conducting the search of the accused Mankirat Singh alias Mani and the Maruti Baleno car bearing registration No. PB08-ET-6293, silver grey in colour, in his possession, I, ASI, attempted to include 6-7 individuals passing by the spot as independent witnesses in the police party. However, each of them expressed their individual compulsions, and none were willing to become private witnesses. Thereafter, in the presence of official witnesses, I, ASI, conducted the search of the accused Mankirat Singh alias Mani and subsequently of the Maruti Baleno car in his possession, in accordance with the procedure. Upon search, from underneath the conductor-side seat of the car, one heavy black polythene packet was recovered. Upon opening and examining it based on experience, opium was found inside.

I, ASI, took out the electronic scale from the government vehicle and weighed the recovered opium along with the packet. Upon weighing, the opium was found to be 02 kilograms. Subsequently, I, ASI, placed the recovered 02 kilograms of opium along with the polythene packet in a plastic container, then placed the plastic container into a cloth bag, and prepared a sealed parcel of opium. The said parcel was sealed by me, ASI, with my seal bearing initials "A.K", and a separate sample seal impression was also prepared. After sealing, the sample seal was handed over to ASI Gurdeep Singh No. 422/ Ludhiana. I, ASI, took the above-sealed parcel of opium, sealed with "A.K", along with the specimen seal impression, into police possession through a recovery memo. The signatures of the witnesses were also obtained on the recovery memo. Thereafter, 1. ASI. conducted a thorough search of the Maruti Baleno car bearing registration number PB08-ET-6293. silver grey in colour, in accordance with the prescribed procedure. During the search, the original Registration Certificate (RC) of the said vehicle was recovered from the car's dashboard. The RC contained the following details: Chassis No. MA3EWB22SMF709662, Engine No. K12MN4726754, and the registered owner as Amandeep Kaur daughter of Kuldeep Singh, resident of village Patti Saha Ki, village Jandiala, Tehsil Phillaur, District Jalandhar, Accordingly, I, ASI, took the said Maruti



Baleno car along with the original RC into police possession through a separate seizure memo. The signatures of the witnesses were obtained on the memo. The accused Mankirat Singh alias Mani, by keeping 02 kilograms of opium in his possession, has committed an offence punishable under Sections 18B, 61, and 85 of the NDPS Act. In this regard, a ruqqa was prepared by me, ASI, with the help of my private laptop. The same was typed by S/Constable Ramandeep Singh No. 1932/Ludhiana, and printed by connecting a printer via the inverter kept in the vehicle. The ruqqa is now being sent through Constable Baldev Singh No. 3807/Ludhiana to Police Station Sarabha Nagar, Ludhiana, for the purpose of registration of an FIR. Kindly register the case and communicate the FIR number. The Control Room is being informed via wireless, and special reports are being prepared and dispatched to the Area Magistrate and the Senior Officers concerned. I, ASI, along with the accompanying officials, am currently engaged in investigation at the spot.

Location: Near railway line, Jhande Cut, Ferozepur Road, Ludhiana, Time: 02:45 PM Signed: ASI Amarjit Kumar No. 1401/LDH, Anti-Narcotics Cell, Ludhiana Date: 04.08.2024. Today, upon receipt of the aforementioned ruqqa at the police station, the said FIR has been registered against the accused Mankirat Singh alias Mani under the relevant provisions mentioned. The original ruqqa and a copy of the FIR are being sent along with Constable who brought Rukka in police station, to the concerned ASI at the spot for further investigation. Special reports are being dispatched by hand through ASI Sarabjit Singh No. 494/Ludhiana to the Area Magistrate and the senior officers concerned. The Control Room has been duly informed. Report No.: 19 Time: 3:55 PM.'

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 submits that



nothing has been recovered from the conscious possession of the petitioner and the alleged recovery of 2 kg. opium is falsely planted upon the petitioner as is evident from the photographs i.e. Annexure P-2 attached with the petition. He further submits that the petitioner is not the owner of the offending vehicle from where the alleged recovery has been effected. Moreso, the investigation in this case is complete as challan stands presented on 22.01.2025, charges stands framed on 04.02.2025 out of 19 prosecution witnesses, 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 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 on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender as he is involved in other FIR, moreso, the recovery of contraband effected from the accused is 3 kg. opium which falls within the category of commercial quantity, therefore, Section 37 of NDPS would create a bar for granting bail.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 8 months and 24 days; petitioner is not the owner of the offending vehicle; and as per the photographs i.e. Annexure P-2 possibility of false implication cannot be ruled out as police official can be seen carrying a black colour polythene bag in their hand while standing outside the house of the



petitioner and that fact can only be decided by the Trial Court by leading evidence, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 22.01.2025, charges stands framed on 04.02.2025 out of 19 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time and therefore, detaining the petitioner behind the bars for an indefinite period would solve no purpose.

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 Nimesh 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.”*

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

02.05.2025
anuradha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No