

2025:PHHC:062569



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

**CRM-M-24738-2025
DECIDED ON: 12.05.2025**

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

Present: Mr. Kamal Gupta, Advocate and
 Ms. Aastha Goyal, Advocate
 for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court under Section 483 of BNNS, 2023 has been invoked for the grant of regular bail to the petitioner in FIR No. 24, dated 17.02.2025, under Sections 21 and 29 of NDPS Act, registered at Police Station City Patti, District Tarn Taran.

2. Facts

The brief facts of the present case, as narrated in the FIR reads as under:-

“Station House Officer, Police Station City Patti. Today, I SI along with ASI Gurmeet Singh 1201/TT, ASI Savinder Singh 886, HC Saroop Singh 1941, PHG Surta Singh 4051, PHG Baljinder Singh 4005, Constable Sandeep Singh 1297 by boarding in official vehicle PB65-BG-6195 were present in front of the office SDM, Regar Colony Turn Patti. During the barricading, a motorcycle

make Hero Splendor without number plate was seen coming from Regar Colony. Three young boys were seen on it. They were stopped with the help of the police party and questioning was made. The motorcycle driver disclosed his name as Hardeep Singh S/o Mukhtiar Singh, resident of Chela Maur Colony, Bhikhiwind, the middle one disclosed his name as Rajan Singh son of Shinder Singh, resident of Baba Jeevan Singh Basti Bhikhiwind and the young man sitting behind disclosed his name as Gurjant Singh S/o Ninder Singh, resident of Church Baler Road, Bhikhiwind. Before conducting their search, an attempt was made to join a public witness in the police party. But no passerby joined, on searching the three boys in sequence, something was found wrapped in a wax envelope in the inner pocket of the jacket worn by the boy Rajan Singh, who was sitting in the middle. Upon asking, Rajan said that it contained heroin. I bought this heroin from Vishal @ Balo son of Binder Singh, resident of Mohalla Barda Patti and handed over the wax envelope to me. The wax envelope containing of heroin was weighed with an electronic scale, which comes to 200 grams. By putting the heroin in a separate plastic box, a parcel was prepared. The parcel was sealed with seal letters CS and a sample seal was prepared separately and seized by separate memo. After the stamp, the seal was handed over to ASI Savinder Singh 886/TT and the motorcycle Hero Splendor without number was taken into police custody through separate memo. Because Rajan Singh, Gurjant Singh and Hardeep Singh by keeping 200 grams of heroin in their possession and Vishal S/o Binder Singh by purchasing it, had committed the offence punishable under sections 21,29/61/85 of the NDPS Act. Hence, ruga is being sent to Police station for registration of case by hand PHG Baljinder Singh 4005. After registering the case, number FIR should be informed and the control room should be informed. Special reports should be issued. I, SI alongwith fellow employees am leaving for the spot for investigation. Today, Regar Colony Maur, opposite the office of SDM Patti Time: -08-10 PM. Sd/- Charanjit Singh SI Police Station City Patti, Date 17-02-2025. At this time, upon receiving the above-

mentioned Ruga at Police Station, the above said case under above said offences was registered. Original application along with a copy of the FIR is being sent to SI for further investigation by hand PHG Baljinder Singh 4005. Special reports are being issued and are being sent to the service of HC Nachhattar Singh 333/TT Illaqa Magistrate Sahib and Senior Officers Control room is being informed through e-mail.”

2. Contentions:

On behalf of the petitioner

It has been contended by learned counsel for the petitioner that the recovery i.e. 200 grams of heroin stands effected from the pocket of the co-accused namely Rajan Singh and the petitioner was sitting on the middle of the motorcycle being driven by one Hardeep Singh. It is further contended that nothing has been recovered from the conscious possession of the present petitioner.

On behalf of the State/complainant

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which the petitioner has suffered incarceration of 2 months and 21 days. However, he is not in a position to dispute the aforesaid factual assertions.

3. Analysis

Be that as it may, considering the fact that the nothing has been recovered from the conscious possession of the present petitioner added with the facts that the investigation is completed, wherein prosecution has cited 10 prosecution witnesses and charges are yet to be framed, meaning thereby, conclusion of trial shall take considerable time, this Court is of the considered view that detaining the petitioner behind the bars for an indefinite period would solve no purpose, which would also curtail his right 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 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.”*

4. Relief:

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail subject to his 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

12.05.2025

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