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2025:PHHC:063074



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

**CRM-M-25034-2025
DECIDED ON: 13.05.2025**

MANPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. J.S. Dadwal, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked for the fourth time under section 483 of B.N.S.S 2023 for grant of Regular Bail to the petitioner in the case FIR No. 0059 dated 19.07.2023 under sections 21-C, 21-B, 27-A, 29, 61, 85 of NDPS Act and Lateron added Under section 25, 54, 59 of Arms Act registered at Police Station, Sarai Amant Khan, District Tarn Taran.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

Chief officer Police Station Sarai Amant Khan, Jai hind, I along with SI Jagjit Singh 803/T TA, CT Karandeep Singh 619/T TA, PHG Jagdeep Chand 4852 along with private laptop, printer and investigation bag in a private car went to the bridge over sua Mor, ghaeri for special nakabandi, that

on the link road from village Gehri a motorbike, mark Splendor without number plate, black colour on which two youngsters were seen riding towards us, I SI using torch light signalled them to stop, they applied the brakes immediately and started to turn back when they were overpowered by myself and my fellow employees, on asking their names and addresses the rider of motorcycle was Angrej Singh son of Baaj Singh resident of Village Dauke, thana Gharinda, dist. Amritsar and the person riding pillion stated that his name was Manpreet Singh son of Jaswawnt singh resident of Village Dauke, thana Gharinda, dist. Amritsar, when asked about documents of motorcycle then Manpreet singh in order to get the documents inspected, removed the seat of the bike when a black plastic bag fell on the ground. The SI asked about its contents then both of them answered that this plastic bag contains heroin and drug money by selling heroin. On which I Si tried to gather witnesses from the public into the police party but being GT road everyone stated their compulsions and hence no public person could be made a part of the police party then I SI along with the recovered heroin and accused Angrej Singh and Manpreet Singh weighed it along with the plastic bag on electronic scale and it came out to 80gms heroin, the recovered heroin was put into a plastic box and parcel was prepared and drug money amount 23,000/- Indian currency was packed in a separate parcel, both the parcels were marked by me SI with my seal DS and sample with seal DS was created separately and after use the seal was given to ASI Jagjit Singh 803/T TA. One parcel plastic box containing heroin 80gms and another parcel Containing drug money 23,000 rupees and black motor cycle mark splendor without number plate were vide separate recovery memos and taken into police custody. Since accused Angrej Singh and Manpreet Singh were found to have 80gms heroin in their possession and 23,000/ rupees Indian currency drug money hence they have committed offence under Sec. 21(B),29/61/85 NDPS Act. On which I SI wrote

ruka and to register case PHG Jagdish. Chand 4852 is being sent to the police station. After the case is registered case number be told to the control room and they be given information. Special reports be prepared and be given toilaga magistrate and respected officers concerned and recovery from the spotrelates to Sec. 57 NDPS Act regarding report be prepared and be sent to halgaofficer. I SI along with other employees are present at the spot.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He further contends that the compliance of mandatory provision of Sections 42 and 50 of NDPS Act have not been made and no independent witness was joined by the investigating officer at the time of alleged recoveries. It has been contended on behalf of the petitioner that the petitioner is not a habitual offender as he is not involved in any other case. He further asserts that the petitioner is in custody since 19.07.2023 and after completion of the investigation, challan stands presented to Court on 16.01.2024, charges have been framed on 30.04.2024 and out of total 14 prosecution witnesses none has been examined so far, meaning thereby, the conclusion of the trial will definitely take long time.

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 alleged contraband i.e. 260 grams of heroin was recovered from the petitioner along with his co-accused Angrej Singh, which is non-commercial in nature.

4. **Analysis**

Be that as it may, considering the custody period undergone by the petitioner i.e. 01 year, 09 months and 18 days added with the facts that the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate produced today before this Court by learned State counsel; compliance of mandatory provision of Sections 42 and 50 of NDPS Act have not been made and no independent witness was joined by the investigating officer at the time of alleged recoveries; investigation is complete, wherein after framing of charges on 30.04.2024 out of total 14 prosecution witnesses, none has been examined so far, which is suffice for this Court to infer that the conclusion of trial shall take considerable time, this Court is of the considering view that detaining the petitioner behind the bars for an indefinite period would serve 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 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 him 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.

13.05.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No