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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25234-2025
DATE OF DECISION: 14.05.2025

HARDEEP SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rishu Mahajan, Advocate for the petitioner(s).

Mr. Rajiv Verma, Sr. DAG, Punjab.

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

This petition has been filed under Section 483 of BNSS with a prayer for grant of regular bail in FIR no. 145 dated 22.08.2023 registered Under Sections 21(c)/25/29 NDPS ACT 1985 registered at Police Station Gharinda, District Amritsar.

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

'iTo the SHO Police Station Gharinda, Sir, today I, SI along with ASI Ghulwinder Singh 1063/ASR (R), ASI Balbir Singh 130/ASR (R) Ct Ajaypal Singh 1558/ASR (R) along with a laptop and a printer and official vehicle Bolero No. PB-02-CR-2423 driven by ASI Gurpreet Singh 272/ASR (R) in connection with patrolling, search of ante social elements and nakabandi we were present at bus stand Khasa, Police Station Gharinda at around 11:30 AM special informer came to me and intimated me that



Bhupinder Singh @ Bhinda, son of Sukhwinder Singh, resident of village Rorhanwala Khurd. Police station Gharinda District Amritsar is in illicit trading of heroin, dealing huge lots of consignments since long. Today aforementioned Bhupinder Singh @ Bhinda in connection with the supply of heroin to one of his unknown customer he is standing in the new bus stand verandah 600 meters ahead of bus stand Khasa towards India gate side. He is waiting for someone. If an immediate raid is conducted at bus stand Khasa then he can be apprehended with huge quantity of heroin. This information being true, be searched by some gazetted officer. That you call some gazetted officer at site. A notice under section 50 NDPS Act was prepared as per rules. I, SI, prepared notice under section 50 NDPS Act for accused Bhupinder Singh Bhinda at 12:10 PM I talked from my mobile phone to Shri Pravesh Chopra PPS, Deputy Superintendent of Police, Sub Division Atari, I intimated him the whole situation and requested him to reach at site. That at 12:45 PM. Shri Pravesh Chopra PPS. Deputy Superintendent of reached at site. Police, Sub Division Atari He introduced himself to apprehended Bhupinder Singh @ Bhinda that I am Pravesh Chopra PPS, Deputy Superintendent of Police, presently deployed at Sub Division Atari, District Amritsar Rural. I am wearing my uniform and my name plate is attached to it. I am gazetted officer appointed by the government of Punjab. I got an information that you are in possession of heroin hence your physical search is required to be conducted. But you have the legal right that you can opt to be checked by some Magistrate or some other gazetted officer. I can arrange the same at site. Accused Bhupinder Singh @ Bhinda verbally intimated Shri Pravesh Chopra PPS, Deputy Superintendent of Police, Sub Division Atari that I trust you and that you can conduct my checking in your presence. I, SI prepared fard of consent of accused Bhupinder Singh Bhinda. Prior to conduct of physical search of accused Bhupinder Singh @ Bhinda I, SI, tried to get a private witness from the general public. But every passer-by intimated his constraints and due to fear of enmity none came out to be a private witness. Then I, SI. as per the directions of Shri Pravesh Chopra PPS,



Deputy Superintendent of Police, Sub Division Atari. 1 conducted the physical search of aforementioned Bhupinder Singh @ Bhinda in presence of Shri Pravesh Chopra PPS, Deputy Superintendent of Police, Sub Division Atari and the police employees. From under the shirt and the vest worn by Bhupinder Singh @ Bhinda a black colour polythene bag tied below the stomach was recovered. The black colour polythene bag having some weight was opened from this a transparent polythene bag containing heroin was recovered. The recovered heroin was packed in the same transparent polythene bag and the transparent polythene bag was packed in the same black colour polythene bag and it was weighed with the help of electronic weighing scale. The heroin along with the polythene bag came out to be 526 grams. The recovered 526 Gram heroin was packed in the same transparent polythene bag and in the same forwarded to the area Magistrate, Police Control Room and the senior police officers. I. SI along with Shri Pravesh Chopra PPS. Deputy Superintendent of Police, Sub Division Atari and the police employees busy in enquiry at site. Area bus stand Kharsa, time 01:35 PM, Sd/ Gopal Singh SI, CIA Staff, District Amritsar Rural date 22.08.2023. Action taken at Police Station: On receipt of the aforementioned computerised note at the police station an FIR is registered under the aforementioned sections/Acts. Original computerised note and a copy of FIR are forwarded to the SI at site by hand through the ASI who brought it. Special reports prepared and being sent to the Area Magistrate and the senior police officers by hand through LR/ASI Sarwan Singh 224/ASR-R. intimated Police through Control wireless. Room Report has been No. concluded time 02:25 PM dated 22.08.2023.'

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. As per the prosecution version, alleged recovery of 526 grams Heroin was effected from co-accused and not from the petitioner whereas nothing



incriminating evidence was produced by the prosecution to connect the petitioner with the alleged recovery. He has further argued that the antecedents of the petitioner are clean. He further submits that similarly situated co-accused namely Bhupinder Singh @ Bhinda has already been granted concession of regular bail by this Court vide order dated 30.04.2025 passed in CRM-M-1336-2025 (Annexure P-3). Moreso, the investigation in this case is complete as challan stands presented on 17.02.2024 charges stands framed on 10.04.2024 out of 15 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 though opposes the prayer for grant of regular bail stating that the recovery effected from the petitioner i.e. 400 grams of Heroin falls under the commercial quantity, however is not in a position to controvert that co-accused has already been granted concession of regular bail.

4. Analysis

Be that as it may, after having thoughtful consideration on the submissions made by counsel for the parties, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 1 year, 8 months and 15 day; antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, 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 17.02.2024 charges stands framed on 10.04.2024 out of 15 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 Nikesht 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 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

14.05.2025
anuradha

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