

2025:PHHC:065600



216

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

**CRM-M-25837-2025
DECIDED ON: 16.05.2025**

HARDEEP SINGH @ RAMMA**.....PETITIONER**

VERSUS

STATE OF PUNJAB**....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Jatinder Singh Gill, Advocate
for the petitioner.

Mr. Rajiv Verma, Senior DAG Punjab

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under section 483 of BNSS for grant of regular bail to petitioner in case FIR No. 28 Dated 06.3.3025 under Section 21,29, 61& 27-A of NDPS Act & Section 111 of BNS at Police Station Shri Hargobindpur. Tehsil Batala, District Gurdaspur.

2. Facts

Facts as narrated in the FIR reads as under:-

"The Station House Officer, Police Station: Sri Hargobindpur, "Jai Hind" (Victory for India). Today I S.I. along with A.S.I. Mohan Singh Number 1632/Batala, H.C. Kanwalpreet Singh Number 1782/Batala, H.C. Hardev Singh Nubmer 1956/Batala, CT. Paramjeet Singh 2409/Batala on private passenger vehicles along with Laptop, Printer accessories were going from the Police Station : Sri Hargobindpur to Lights Chowk, MetleMathola, Bharth etc. for patrolling and in search of wicked/ evil persons and when the Police Party while patrolling

reach a little ahead of Metla Pulley towards Village Mathola on the concrete ('Pakki') Link Road, then from the left side, from the Bumbi room, one clean-shaven ('Mona') young boy started climbing on the concrete ('Pakki') Road, then on seeing the Police Party, he being perplexed/ confused, tried to turn behind and while he was going to throw one transparent envelope by taking out from the right pocket of the lower worn by him, then I, with the assistance/ help of the companion employees captured/ apprehended him and after capturing, asked his name and address, who disclosed his name as Hardeep Singh alias Deep alias Ramma son of Jarnail Singh, resident of Mathola, from whom the polythene envelope held in his right hand was opened and checked, then from the said polythene envelope, Heroin was recovered. Then the recovery Heroin was weighed on the computerised weighing machine and on weighing the same, the Heroin came to be 10 grams along with the polythene envelope. By putting the recovered Heroin along with the polythene envelope in a plastic box, the Parcel was prepared. The said Parcel was duly sealed by me with my seal bearing impression 'RS', the sample Seal was prepared separately. The seal, after use, was handed over to H.C. Kanwalpreet Singh Number 1782/Batala and the Parcel of Heroin weighing 10 Grams duly sealed with the seal bearing impression 'RS' was taken into Police possession as evidence vide a separate Memo. Due to sudden recovery of Heroin, opportunity was not found to join the public witness, Gazetted Officer or Magistrate Sahib in the Police Party. On conducting the personal search of Hardeep Singh alias Deep alias Ramma son of Jarnail Singh, resident of Mathola, from the left pocket of the Lower worn by him, Rupees 1,700/- Indian Currency three Notes of denomination of Rupees 500/500 each and two Notes of the denomination of Rupees 100/100 each drug money was recovered, which was also taken into Police possession vide a separate Memo. In the brief enquiry, the accused Hardeep Singh alias Deep alias Ramma son of Jarnail Singh, resident of Mathola disclosed that I have purchased the afore- mentioned recovered Heroin from Babbu Kalia son of Fauja Singh, resident of Mathola

and I am selling the same in the nearby villages, on which Babbu Kalia son of Fauja Singh, resident of Mathola has been indicted/ nominated in the case. The accused Hardeep Singh alias Ramma son of Jarnail Singh, resident of Mathola, by keeping into his possession 10 Grams Heorin, has committed the offence under Section 21/29/27A-61-85 of N.D.P.S. Act and S. 111 of B.N.S., on which after scribing/ writing a 'Ruqa' (written message), the same is being send to the Police Station for registration of a case by hand through CT. Paramjeet Singh 2409/Batala. After registering the case, the case number may be informed/ intimated. After issuing the Special Reports, the same may be sent to the Senior Officers. Control Room be informed. I, S.I. along with the companion/associate employees am busy in the investigation at the spot. Today in the area of Village Mathola at 03.15 P.M., sd/ Ranjit Singh S.I., Police Station : Sri Hargobindpur, dated 06.03.25. Today at the Police Station: At this time, on receipt of the afore-mentioned writing at the Police Station by registering the case for the aforementioned offence in the CCTNS, copy of the F.I.R. along with the original writing are being sent to the S.I. at the spot by hand through the CT. who brought the same, who is busy in the investigation at the spot. Control Room is being informed through E-mail. By issuing the Special Reports, the same are being sent to the Area ('Illaqa') Magistrate, Batala and the Senior Officers.'

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 just to show that the police officials are fighting against drugs and for that purpose, the FIRs being registered. He submits that the recovery of contraband i.e., 10 grams of heroin, which is non-commercial in nature has been fastened upon him. He further submits that the petitioner is a person of clean antecedents, as he is not involved in any other case.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 2 months and 8 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that 10 grams of heroin was recovered from the petitioner, therefore, he does not deserved the concession of bail.

4. Analysis

Considering the fact that the petitioner has suffered incarceration of 2 months and 8 days; quantity of recovered contraband is non-commercial in nature and the petitioner is not involved in any other case, meaning thereby he is not a habitual offender, this petition deserves to be allowed.

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.”

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.

(SANDEEP MOUDGIL)
JUDGE

16.05.2025

Meenu

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*