



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

220

CRM-M-27178-2025

DATE OF DECISION: 22.05.2025

NEERAJ ALIAS LUCKY

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.K.S. Siwach , Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

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

This petition has been filed under Section 483 of the BNSS, 2023 seeking the concession of regular bail for the petitioner in FIR No.808 dated 12.08.2022 under Sections 22(c), 29 (Act No. 61) of The Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Barwala, District Hisar.

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

*‘To, The Station House Officer, P.S. Barwala, Jai Hind. Today on 12.08.2022, I, ASI Makhan Singh No.416/BWN, Haryana State Narcotics Control Bureau, Hisar along with HC Rajbir No.77/Hansi, Ct. Parmod No.5/688, EHC Wazir Singh No.986/Hisar were in government vehicle bearing No.HR-05GV-5957 which is being driven by EHC Satish were present below the bridge in connection with illegal smuggling of intoxicant substance*



*at Hisar-Ambala-Jind Road, Barwala bypass. The secret informer met and gave information that Chamkaur@ Ramniwas S/o Raunak R/o Gaibipur and Kuldeep S/o Dharambir, R/o Gaibipur are coming on motorcycle bearing registration No,HR-80C-0659 and will come at Data Gurana Road, Barwala Bypass for selling intoxicant medicines. If barricading is done at Data Gurana Road, Barwala Bypass, then the above said Chamkaur @ Ramniwas and Kuldeep can be caught with heavy quantity of intoxicant medicines and motorcycle. On finding the information trustworthy, I, ASI informed about the information to fellow colleagues. Raiding party was prepared. On this separate notice under Section 42 NDPS Act was prepared and is being sent to Police Station through HC Rajbir No.77/Hansi for information. Report be lodged in the roznamcha and information be given to higher officials. That I ASI alongwith fellow colleagues left for Data-Gurana Road bypass and I, ASI Makhan Singh slongwith fellow colleagues reached Data-Gurana Road, Barwala and there we started barricading. The motorcycles are being checked which are going to and fro. After sometime two young boys were seen coming on motorcycle. On this, I signaled them to stop and then on seeing the police party, both the young boys tried to turn back the motorcycle and were trying to ran away and in the meantime, the motorcycle stopped. I caught both the ybung boys alongwith motorcycle with the help of fellow colleagues. The boy who was pillion rider on the motorcycle was having white color bag in his right hand. On checking the registration number of the motorcycle comes out as HR-80C-0659 mark City-100 and it was as per the information. First of all I enquired about the whereabouts from the motorcycle rider, then he disclosed his name as Kuldeep @ Mattri S/o Dharambir R/o Gaibipur and on inquiry from the pillion rider of the motorcycle, he disclosed his name as Ramniwas @ Chamkaur S/o Raunak Ram, R/o Gaibipur. On having suspicion of intoxicant substance as per information, I, ASI gave my full introduction to above said Ramniwas @ Chamkaur and served him with separate legal notice under Section 50 of NDPS Act to the effect that I ASI Makhan Singh No.416/Bhiwani is posted at HNSCB Unit, Hisar. I have*



*given my full introduction as well of my team to you Ramniwas @ Chamkaur S/o Raunak Ram, R/o Gaibipur informs you through notice that I have received a trustworthy information of having intoxicant tablets with you. That it is necessary to carry out your personal search and search of white color bag that you are holding in your right hand and you have got legal right' that you can conduct get yourself and your white bag searched in front of any Gazetted Officer or any Magistrate and they can be called on the spot or else you can be produced before them. You express your desire. Notice under Section 50 of NDPS Act was written in Hindi language and was read over to Ramniwas @ Chamkaur. In this way, a separate legal notice under Section 50 of NDPS Act was served to Kuldeep @ Matti to the effect that 'I ASI Makhan Singh No.416/BWN is posted at HSNCB Unit, Hisar. I have given my full introduction including introduction of my team to the effect that you, Kuldeep @ Matti S/o Dharambir, R/o Gaibipur is informed through notice that I have trustworthy information that you are having intoxicant medicines. That your personal search and search of your motorcycle, bearing registration No.HR-80C-0659 mark City-100 is to be conducted and you have legal right that you can get yourself and your motorcycle bearing No.HR-80C-0659 mark City-100 to be search before any Magistrate or any Gazetted Officer by calling them on spot or else you can be produced before them. Notice under Section 50 of NDPS Act was prepared in Hindi language which is known to Kuldeep @ Matti and 38 was read over to him. On this, both Ramniwas @ Chamkaur and Kuldeep Matti have read their respective notice and first of all Ramniwas @ Chamkaur got recorded his reply in front of below mentioned witnesses and after thinking for some time, Ramniwas @ Chamkaur S/o Raunak Ram, R/o Gaibipur told that I have read the notice given by you and I want to get myself and my white bag which I was holding in my right hand to be searched by any Gazetted Officer by calling on the spot. That reply of notice under Section 50 NDPS Act was prepared and it was read over in Hindi language which is known to above said Ramniwas @Chamkaur and in the same way, Kuldeep @ Matti has got recorded his reply*



*to the notice before below mentioned witnesses after thinking for sometime Kuldeep @ Mattri S/o Dharambir R/o Gaibipur told that I have completely understood the notice given by you and I want to get myself and my white color poly bag which I was holding in my hand in front of Gazetted Officer by calling him on the spot. Reply to notice under Section 50 of NDPS Act was prepared and was read over Kuldeep @ Mattri in Hindi language which is known to him. After that I, ASI from my Mob. No.9466008138 called Duty Magistrate Sh. Manoj Gupta, Principal G.M.S.S.S, Barwala on his Mob. No.9813230659 at about 6:40 pm and apprised him with the situation and requested him to reach on the spot and he replied that he is reaching on the spot in sometime. At about 7:20 pm, Duty Magistrate Sh. Manoj Gupta, Principal G.M.S.S.S, Barwala came on the spot and on this, I, ASI apprised him with the situation. Notice and reply to notice alongwith motorcycle and above said Ramniwas @ Chamkaur and Kuldeep @ Mattri were produced before him and after that Duty Magistrate Sh. Manoj Gupta, Principal G.M.S.S.S, Barwala offered search of me and my team and on this, he himself searched myself and my team. During search no intoxicant substance or anything was found with me and with my team and memo of search was prepared separately. Memo was signed by witnesses and accused. Duty Magistrate Sh. Manoj Gupta, Principal G.M.S.S.S, Barwala has attested the memo. After that A Duty Magistrate Sh. Manoj Gupta, Principal G.M.S.S.S, Barwala has instructed me to carry out search of above said Ramniwas @ Chamkaur and Kuldeep @ Mattri and Motorcycle No.HR-80C-0659 as per rules. I carried out search of Ramniwas @ Chamkaur and Kuldeep @ Mattri alongwith their motorcycle in presence of Duty Magistrate. No intoxicant substance was found with Kuldeep @ Mattri and in his motorcycle and after that on checking the white color polythene bag which was hold by Ramniwas @ Chamkaur in his right hand was checked, then 12 strips of intoxicant tablets TRAMADOL HYDROCHLORIDE TABLETS 100 mg Celcidal-100 SR and that each strip is containing 50-50 intoxicant tablets and were having BATCH NO.21B-T187 MFG MAY 2021 Ex.APR 2023 MRP*



*RS.192.50 and the total tablets comes out as 600 and 35 strips of intoxicant tablets of TRAMADOL HYDROCHLORIDE TABLETS 100 mg CLOVIDOL-100 SR and that each strip contained 50 intoxicant tablets having BATCH NO. TVD-20052 MFG MAY 2020 EXP. APR 2023 MRP Rs.192.50. That total intoxicant recovered are 1750. After that from 12 strips of TRAMADOL HYDROCHLORIDE TABLETS 100 mg Celcidal-100 SR, 10 tablets were taken out from one strip and on weighing the same on the electronic weighing machine, then the total weight of 10 tablets comes out as 4 gm and 50 milligrams and that as per this weight the total weight of 600 intoxicant tablets comes out as 270 gms. The tablets which were taken out were put back in the same strip and separate palanda of cloth was prepared. After that from 35 strips of intoxicant tablets of TRAMADOL HYDROCHLORIDE TABLETS 100 mg CLOVIDOL-100 SR, 10 intoxicant tablets were taken out from one strip and on weighing the same on electronic weighing machine, then the total weight of 10 tablets comes out as 5 gm and as per this weight, the total weight of 1750 intoxicant tablets comes out as 875 gm. The tablets which were taken out were put back in the same strip and palanda of cloth was prepared. After that I stamped both the palandas with my stamp MS/3 and the stamp after use was handed over to Ct. Parmod No.5/688. After that Duty Magistrate Sh. Manoj Gupta, Principal G.M.S.S.S, Barwala has stamped both the palandas with his stamp M/1 and has kept the stamp with him after use. Both the Palandas were attested. Both the cloths palandas of Intoxicant tablets all stamped with stump MS/3 and. M/1 along with sample seal and motorcycle bearing registration No.HR-80C-0659 mark City-100 of blue color were taken into police custody through property seizure memo. Duty Magistrate Sh. Manoj Gupta, Principal G.M.S.S.S, Barwala has attested the property seizure memo and palanda. During the above said proceedings public persons were asked to join the investigation, but all of them have showed their genuine inability and left the place without informing their whereabouts. Because accused Avinash @ Chamkaur and Kuldeep @ Mattři above said have committed an offence under Section 21(c)-61-85 of NDPS Act*



*by keeping in possession commercial quantity of intoxicant tablets TRAMADOL HYDROCHLORIDE TABLETS 100 mg Celcidal 100 SR 600 tablets and TRAMADOL HYDROCHLORIDE TABLETS 100 mg CLOVIDOL - 100 SR 1750 sent through EHC Satish Kumar No.173/Hisar to police station Barwala for registration of case. Registered number of the case be informed after registering of the case and special reports of case be sent to higher officials and MHC of police station Barwala is informed to send another investigating officer on the spot. I ASI is present on spot alongwith case property and accused with fellow colleagues and is busy in investigation. At T-Point Data Gurana Road, Barwala By-pass National Highways. Sd/- Makhan Singh ASI. Makhan Singh No.416/Bhiwani HSNCP Unit, Hisar. Dated 12.08.2022 at 9:30 pm. Mob. No.9466008138.'*

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 the petitioner was not named in the present FIR and neither the informer named the present petitioner nor the secret information. The petitioner was nominated on the basis of disclosure statement of co-accused Ramniwas from whom 37 strips (2350) tablets of Tramadol, manufactured by Neutec Healthcare Pvt. Ltd. (containing 50 tablets each of Tramadol i.e. total 2350 tablets) was recovered. It is his further contention that neither the petitioner was present at the spot nor anything was recovered from his conscious possession. He has further argued that nothing has been recovered from the petitioner. Moreso, the investigation in this case is complete as challan stands presented on 24.01.2024 charges stands framed on 24.05.2024 out of 26 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 FIRs also, moreso, the quantity of contraband recovered in this case is commercial in nature, therefore, Section 37 of NDPS Act would create a bar for granting the bail to the petitioner.

**4. Analysis**

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 8 months and 14 day, no recovery is to be made from the petitioner, whatever recovery is effected is recovered from co-accused-Ram Niwas and not from the petitioner; the petitioner was named in the present FIR on the basis of the disclosure statement of co-accused 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 24.01.2024 charges stands framed on 24.05.2024 out of 26 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 *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.”*

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

22.05.2025  
anuradha

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