



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

222

CRM-M-27203-2025

DATE OF DECISION: 22.05.2025

MANJEET SINGH @ SONI

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Gill, 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 the BNSS, 2023 seeking the concession of regular bail for the petitioner in FIR No. 19 dated 28.02.2024 under Sections 22 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Rajpura, District Patiala.

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

‘Copy of ruqa. SHO, Police Station Sadar Rajpura, Jai Hind! Today, I, ASI along with HC Satnam Singh 2594/Patiala, HC Jasvir Singh No.509/Patiala and PHG Fakir Nath No.18159 were riding private vehicle and present on Rajpura to Chandigarh Road at Jansua turn in connection with search of suspicious persons, laid nakabandi and were checking the passing vehicles. At about 07.00 PM, one mullan fashion person was seen coming on



motorcycle from Rajpura side. I, ASI with the help of companions stopped him. A heavy black coloured polythene envelope was kept on the fuel tank of motorcyclist. I, ASI asked the name and address of the apprehended motorcyclist. He disclosed his name as Manjeet Singh @ Soni son of Mohan Singh, resident of village Khairpur, Police Station Shambhu, District Patiala. Thereafter, I, ASI disclosed my identity and told that "I, ASI Tejinder Singh No.1110/Patiala am posted at Special Cell, Rajpura. I suspect that there is something intoxicant material in the black coloured heavy polythene kept on fuel tank of your motorcycle and want to search the same. But you are legally entitled to get search the heavy black coloured polythene envelope kept on the fuel tank of your motorcycle in the presence of any Magistrate or Gazetted Officer. They can be called at the spot or you can be brought before them". He thought little while and reposed faith in me ASI and told that I can search the heavy black coloured polythene kept on the fuel tank of his motorcycle. His consent statement and notice under section 50 NDPS Act was prepared separately, which were signed by Manjeet Singh @ Soni son of Mohan Singh, resident of village Khairpur, P.S. Shambhu and witnesses. Thereafter, I, ASI conducted the search of the heavy black coloured polythene kept on the fuel tank of motorcycle possessed by Manjeet Singh @ Soni son of Mohan Singh, resident of Khairpur, P.S. Shambhu. Out of which white coloured intoxicant tablets recovered, on counting which came to be 1250 intoxicant tablets in numbers. The recovered white coloured intoxicant tablets were put in a white coloured plastic container then in cloth bag and converted into a separate parcel. The parcel of intoxicant tablets was sealed by me ASI with my seal bearing letters TS. Sample seal was prepared separately. After use, seal was handed over to HC Satnam Singh No.2594/Patiala. Thereafter, the above mentioned parcel of intoxicant tablets duly sealed were taken into police possession by me ASI with separately recovery memo. Witnesses signed the memo. The black coloured motorcycle bearing No.PB12L-1790 make Splendor was taken into police possession through a separate recovery memo. Memo was signed by the witnesses.



Above mentioned Manjeet Singh @ Soni has committed offence under section 22-61-85 NDPS Act by keeping in his possession intoxicant tablets. Therefore, the ruqa has been typed and same is being sent to the police station by hand through PHG Fakir Nath No.18159 for registration of case under said section against above mentioned Manjeet Sigh @ Soni. After registration of case I may be intimated case number. Special reports be issued. Senior Officers and Control Room be informed. I, ASI along with companions am busy in investigation at the spot. In the area of :-Rajpura to Chandigarh Road at Jansua turning at 08.40 PM. Sd/- Tejinder Singh, ASI, Special Cell Rajpura dated 28.02.2024...."

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 as per the allegations 1250 loose tablets were recovered from a black coloured polythene envelope kept on the fuel tank of the motorcycle of the petitioner, hence, chances of false implication cannot be ruled out. Moreso, the investigation in this case is complete as challan stands presented on 15.07.2024 charges stands framed on 07.02.2025 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 opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender as he is involved in other FIRs also but is not in a position to controvert the submissions made by learned counsel for the petitioner.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 1 year, 2 months and 19 days and possibility of false implication cannot be ruled out in the present case since as per the prosecution story, it is alleged that the petitioner was carrying the loose tablets in black colour polythene bag which is highly improbably as any prudent man would not carry any contraband openly on the fuel tank of his motorcycle, further, 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 15.07.2024 charges stands framed on 07.02.2025 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 *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

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*