



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-27270-2025
DATE OF DECISION: 22.05.2025

SUJEET SINGH

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Chahal, Advocate for the petitioner(s).
Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

There is a request for hearing of the case through Video Conferencing.

Prayer is adhered to.

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. 212 dated 30.07.2024 under Sections 22(c)/27-A of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Ratia, District Fatehabad.

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

‘Managing officer, Police Station City Ratia Jai Hind Today, I along with EASI Raghubir Singh No. 784 FTB, ESI Rajendra Prasad No. 158/FTB with laptop printer and passenger vehicle government number HR 22GV-7824 whose driver is Anup Singh No. 583/FTB was present at Lali Maur Ratia for prevention of drug trafficking when a special informer came near the vehicle and informed me that a boy named Sujeet Singh son of Suraj Bhan resident of Narka Mohalla Ratia is sitting on Tohana Road Ratia



Bypass who has drugs in a white envelope. If an immediate raid is conducted then he can be caught along with the drugs. If the information is found to be reliable then it is necessary to inform the higher authorities about the information. Notice of information 42 NDPS Act was prepared and sent to ESI Rajendra Prasad No. 158 FTB for registering a report in City Police Station Ratia. After the report is registered, the local officer Mr. Sanjay Kumar HPS Deputy Superintendent of Police, Ratia, should be informed about the notice. The ASI, after informing his fellow employee about the informer, left with the vehicle for the place of information of the government, Tohana Road Ratia Bypass, and reaching Tohana Road Ratia Bypass via Ratia city, he saw a boy walking on the 19 bypass road towards Budhlada with a white envelope in his hand. The ASI stopped the vehicle near him along with his fellow employees got down from the vehicle and after matching the envelope on the basis of the informer, asked his name and address, he told his name as Sujeet son of Suraj Bhan son of Deva Singh resident of Ward No. 6. Naharka Mohalla, Ratia. On the basis of information given by an ASI, I had full suspicion that the above mentioned Sujit was carrying some narcotic substance, so I introduced myself and gave notice to Sujit under section 50 of the NDPS Act that "1. Assistant Sub Inspector Major Singh No. 65/FTB Anti Narcotics Cell Fatehabad, inform you Sujit son of Suraj Bhan son of Deva Singh resident of Ward No. 6, Naharka Mohalla. Ratia, Bajaria, that I suspect that you and the white coloured envelope in your hand contain some narcotic substance. therefore, it is necessary to search you and your envelope. You have the legal right that if you want yourself and your envelope to be searched in front of a gazetted officer or a magistrate, then he can be called on the spot or you can be produced before them along with your envelope for search. you may express your wish." On which Sujit, after reading and understanding the notice given by me, got his consent notice written that "I, Sujit, son of Suraj Bhan, son of Deva Singh, resident of Ward No. 6, Naharka Mohalla, Ratia, have read and understood the notice given by you very well and I want to get myself and the white colored envelope



in my hand searched in the presence of gazetted officer by calling the officer on the spot and get it done. Sujit above mentioned and witnesses signed on the notice and consent notice. After the notice and consent notice, I contacted duty officer Shri Kishan Lal Verma AETO Excise Tax Officer Fatehabad on his mobile number 9812121150 at 3.10 PM from my mobile number 9812515606 and informed him about the situation and requested him to reach the spot and Gurpal Singh son Ajmer Singh resident Ward No. 4 Ratia has arrived on the spot as requested. Shri Kishan Lal Verma AETO reached the spot on government RTKA vehicle at 5.20 PM. Then I gave my mobile to Si. Anup Singh No. 583/FTB and instructed him to start videography of the seizure from the mobile. I served notice and consent notice to Shri Kishan Lal Verma AETO and presented Sujit above mentioned and witnesses before him. Who after introducing themselves and studying the notice and consent notice, overpowered Sujit above and after interrogating the witnesses, overpowered me and instructed me to search Sujit above and the white coloured envelope in his hand as per rules. Then I carried out the physical search of Sujit above and found Rs. 130, a mobile phone brand Samsung pad white coloured with SIM number 8708300781 in the right pocket of the capri worn by Sujit. The above items have been taken into police custody separately in the Bajriya report. Then I searched the white coloured envelope of Sujit above and recovered the covers of intoxicating pills Etizolam 0.5 in the envelope. When I took the covers of intoxicating pills Etizolam 0.5 out of the polythene envelope and checked it. found 44 covers of Etizolam 0.5 in it, each having 10 tablets, making a total of 440 tablets. In which 30 addresses were narcotic tablets Etizolam 0.5, each containing 10 tablets, a total of 300 tablets were recovered. On each address was written NRX Etizolam Tablets IP Stress-O-win -0.5 Batch No. UGT-24565 Mfg Date 04/2024 and Exp. Date 03/2026 and Manufactured By Unimarck Healthcare LTD WHO GMP Certified Company Plot No 24,25,37 Sector-6A SIDCUL Haridwar 249403 Uttarakhand and 8 addresses were narcotic tablets Ezilam 0.5, each containing 10 tablets, a total of 80 tablets were recovered. On each address was



written NRX Etizolam Tablets IP Batch No. NRT-108 Mfg Date Feb/2024 and Exp. Date Jan/2026 and Mfd in India By SBS BIOTECH Mouza Rampur, Jattan, Nahan Road Kala Amb, Distt. Sirmour H.P is written and 6 addresses of narcotic tablets Etizox 0.5 MD, each address having 10 tablets, total 600 tablets were recovered, each address had NRX Etizolam Tablets 0.5 Mg Batch No. T240124 Mfg Date Jan/2024 and Exp. Date Dec/2026 and Manufactured By Hiral Labs LTD Sisona, Nr. Roorkee 247661 U.K is written, which weighed all types of Baroda Intoxicant Pills, a total of 440 tablets in 44 addresses, using the computer scale kept in the vehicle, whose total weight including addresses was 115 grams. The Baroda Intoxicant Pills Etizolam Tablets addresses and the empty envelope were put into a plastic jar and a separate seal was prepared by me. I all-time stamped the Palanda Intoxicant Pills Etizolam Tablets with my seal MS and prepared a separate sample seal. Shri Kishan Lal Verma, AETO, also ali-time stamped the Parcel Intoxicant Pills Etizolam Tablets with his seal KK and prepared a sample seal. I took possession of the Parcel Intoxicant Pills Etizolam Tablets along with the sample seal as evidence of reason through the property form. The above mentioned accused Sujeet and the witnesses signed on the property form. I handed over the sampic seal to EASI Raghubir Singh No. 784 FTB for keeping the seal after usc and Shri Kishan Lal Verma, AETO kept the seal with himself after use and the property form, Parcel intoxicating pills Etizolam Tablets all sealed along with the sample seal was verified by Shri Kishan Lal Verma, AETO. Further action will be taken after getting the videography and photography prepared in future. 44 tablets strips from Sujit, total 440 intoxicating pills Etizolam Tablets whose total weight including strips is 115 grams, which comes under the category of NDPS Act as per serial number 238 ZZC. The above mentioned accused Sujeet has committed the offence under 22C-61/85 of the Narcotic Drugs Act by having in his possession 440 intoxicating pills Etizolam Tablets with a total weight of 115 grams, therefore this article is being written and sent to the police station through CI Anup Singh No. 583/FTB for registering the case. After registering



the case. inform by the case number and special report of the case should be sent to the higher officials and Area Magistrate Sahib through a special carrier for information and other competent investigator should be sent for further investigation of the case at the spot. I am busy in investigation at the spot. Place of Crime Bypass Near Tohana Road Ratia SD ASI Major Singh No. 65/FTB, ASI Major Singh No. 65/FTB Anti Narcotics Cell Fatehabad Date 30-07-2024 Mobile No. 9812515606 AT 6.20 PM Today at Police Station, on arrival complaint, Case No. 212 dated 30.07.2024 Section 22C-61-85 NDPS Act Police Station City Ratia registered and after registering the case, I take the copy of the original complaint along with ASI Hamra and leave for the spot of incident along with Arinda Si. Special report of this case in the hands of Bajaria Special Carrier SPO Harjeet Singh 188, Officers Bala and it is being sent to the service of the Area Magistrate. And the Managing Officer of Police Station was informed about the circumstances of the case through telephone."

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 prosecution case, 440 tablets (115 grams) of Etizolam has been allegedly recovered from the petitioner whereas the petitioner has a valid prescription for the said medicine i.e Annexure P-3 and one another prescription of Mukhtiyar who is aged about 69 years who has also been prescribed the same tablets as medicines by the doctor, hence, the same is planted one. He further submits that no further recover is to be made from the petitioner. He has further argued that the antecedents of the petitioner are clean. He submits that similarly situated co-accused namely Sumit @ Sonu has already been granted concession of regular bail by this Court. Moreso, the investigation in this case is complete as



challan stands presented on 24.01.2025, charges are yet to be framed and 30 prosecution witnesses, have been cited, 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 was found in possession of 440 tablets of Etizolam weighing 115 grams which is commercial in nature, hence, prays for dismissal of the petition.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. though allegedly recovered has been effected from the petitioner but the petitioner has a valid prescription issued by the doctor for the said medicine; similarly situated co-accused has already been granted concession of bail by this Court; 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 24.01.2025, charges are yet to be framed and 30 prosecution witnesses, have been cited, 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.”

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*