



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

CRM-M-27399-2025

DATE OF DECISION: 23.05.2025

AMANDEEP @ BILLA

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Vishal Sharda, Advocate for the petitioner(s).

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

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

This petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 for grant of regular bail to the petitioner in case FIR No. 362 dated 22.07.2023 under section 21, 22 of NDPS Act (Sec 29, 27-A of NDPS Act and Sec 27(b)(ii) of Drugs and Cosmetics Act added later on) registered at Police Station: Parao Ambala Cantt, District: Ambala as Annexure P-1.

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

‘To, the Station House Officer Police Station Parao Ambala Cantt, District Ambala. Sir, It is submitted that today I, S.I. Krishan Lal, No. A/131 along with A.S.I. Jaspal Singh No. 01, H.C. Charan Singh No, 93, HC Saravjot Singh No 81, E.H.C. Pardeep Kaur No. 1319 in a private car with my personal Laptop and



Printer in connection with patrol and crime detection duty am present in the area of Police Station near Shastri Cut, Ambala Cantt where a Secret informer informed me that Amandeep alias Billa son of Harbans Lal R/o H. No. 80, Village Saunda Colony Ambala City is indulging in business of selling intoxicated injections. After some time he will go to Bandri Wala Mandir near Ambala Cantt. Flyover outside the Ambala Bus stand to give intoxicated injections to someone, and in case if picketing is done then he can be apprehended along with intoxicated injections. That believing the information to be true I, S.I. prepared a notice at 3:40 PM and sent by hand through EHC Pardeep Kumar No 1319 to Station House Officer Police Station Parao Ambala Cantt and prepared notice under section 42 NDPS Act at 3.45 PM for the information to Sh. Ashish Chaudhary HPS DSP Ambala Cantt District Ambala by hand through HC Sarvjot Singh No. 81. Thereafter I informed about the secret information to the passerbys and to join the raiding party but all the passer by while expressing their inability went from the spot. On this I informed about the secret information to fellow colleagues and started surveillance near the Bandri Mandir at near the Flyover Ambala Cantt. That after some time a young boy while carrying a polythene in his hands came near the Bandri Wala Mandir and stood there. To whom secret informer signalled and told that he is Amandeep alias Billa son of Habans Lal R/o H. No. 80, Village Saunda Colony Ambala City. That secret infomer went from there after signalling. I, SI Krishan Lal with the help of fellow colleagues apprehended the young boy and asked his name and address, who disclosed his name as Amandeep alias Billa son of Habans Lal R/o H. No. 80, Village Saunda Colony Ambala City. Thereafter I told him that I have suspicion that there are intoxicated injections in the polythene which you are carrying in your hand. You have right that you can get your search conducted in presence of any Gazetted Officer or Magistrate, whereby notice under section 50 NDPS ACT was prepared. That above named Amandeep after reading the notice appended his signatures upon it Upon the notice under section 50 NDPS witnesses appended their



respective signatures. In reply to notice under section 50 NDPS above named Amandeep gave consent to get his search be conducted in presence of Gazetted Officer, whereby upon the memo of consent notice under section 50 NDPS Act was prepared. Upon the memo of consent above named Amandeep and witnesses appended their respective signatures. Thereafter I contacted Shri Ashish Chaudhary HPS DSP Ambala Cantt. District Ambala from my mobile Number 9416448884 time at around 4.10 PM upon his mobile number 9729990103 and while apprising him about the circumstances requested him to reach the spot. That DSP ordered that you may bring accused Amandeep and whatever substance he is having to my office. Whereby I along fellow colleagues along with accused Amandeep alias Billa son of Harbans Lal Resident of House No. 80 Village Saunda Colony Ambala City reached office of Deputy Superintendent of Police Ambala Cantt. Where I apprised Shri Ashish Chaudhary HPS DSP Ambala Cantt about circumstances and produced notice under section 50 NDPS ACT, memo of consent notice under section 50 NDPS ACT and above named Amandeep before him. That Shri Ashish Chaudhary HPS DSP Ambala Cantt saw notice under section 50 NDPS Act, memo of consent notice under section 50 NDPS Act. Thereafter Shri Ashish Chaudhary HPS DSP Ambala Cantt conducted personal search of myself S.I. as per Rules and myself S.I. as per the orders of Sh. Shri Ashish Chaudhary HPS DSP Ambala Cantt conducted personal search of fellow employees A.S.I. Jaspal Singh No. 01. H.C. Charan Singh No 93 that besides daily need items, no item was recovered. Whereby memo of personal search of employees was prepared separately. Upon the memo witnesses appended their respective signatures. During same time EHC Pardeep Kumar No. 1319 Police Station Padaw after providing information came present in the office of Deputy Superintendent of Police Ambala Cantt. Thereafter Sh. Ashish Chaudhary HPS DSP Ambala Caritt introduced himself to above named youth Amandeep with his name and designation and issued directions to me S.I to conduct search above named youth Amandeep and white coloured polythene which he was carrying in his hand. That during search white coloured



polythene which said youth Amandeep was carrying in his hands was checked then from inside the Polythene in light yellow coloured polythene total of 25 injections make BUPRENORPHINE INJECTION IP (BUPINE) 2 ML, upon all the injections Batch Number is mentioned as 11.23003, were recovered, in this regard opinion of Drugs Controller Ambala is to be sought, whereby Sh. Hemant Grover DCO Ambala was contacted upon his Mobile No., 9416404474 by me from my mobile Number 9416448884 time at 5.18 PM and upon the instance of Shri Hemant Grover DCO for seeking opinion regarding recovered injections separate written application and photographs of intoxicated injections was sent to his Whatsapp. That after some time Shri Hemant Grover DCO Ambala sent his written report through Whatsapp which is as under:- The above mentioned drug BUPRENORPHINE" falls under NDPS Category at Sr. No. 169 of Table in NDPS That after putting above mentioned recovered 25 intoxicated injections BUPRENORPHINE INJECTIONS IP 2 ML Batch No. 1L:23003 in same light yellow coloured polythene and then in same white coloured polythene recovered injection were put along with polythene in plastic box then put in a cloth parcel, parcel of the same was prepared and parcel was stamped by myself S.I. with my stamp PC/3. Sample seal duly sealed PC/1 was prepared separately. Parcel of injection and sample seal was sealed by Sh. Ashish Chaudhary HPS DSP Ambala Cantt with his stamp AC/1. I handed over my stamp after use to ASI Jaspal Singh No. 01 and DSP kept his stamp after use with himself. That recovered parcels of Polythene injection duly sealed along with sample seal were taken into police custody as evidence vide memo. Upon the memo accused Amandeep and witnesses appended their respective signatures. That accused Amandeep above named could not produce any License in concern of the intoxicated injections which he was carrying. That accused Sumit while keeping in his possession BUPRENORPHINE INJECTION IP (BUPINE) 2 ML has committed an offence under section 21/22-61 85 NDPS Act, whereby statement was reduced to writing for registration of case is being sent by hand through EHC Pardeep Kumar to Police



Station. After registration of case, number of the case may be informed. As per the directions of the Hon'ble Supreme Court second Investigation Officer may be sent at the spot. Special copies of first information report may be sent through E-mail to concerned senior officers. Today in the office of Deputy Superintendent of Police, Ambala Cantt SD KRISHAN LAL SI Police Station Padaw dated 22.07.2023 time 06.05 PM. Today at Police Station:- Upon receipt of statement in Police Station by hand through EHC Pardeep Kumar No. 1319, case Number 362 was registered under section 21/22-61-85 NDPS Act Police Station Padaw, copy of police file along with original statement is being sent for investigation through arrived EHC Pardeep Kumar No. 1319 to responsible Investigation Officer. Special copies of First Information report are prepared and are being sent through E-mail for the kind perusal of Ilaqa Magistrate, Superintendent of Police Ambala, Deputy Superintendent of Police Ambala Cantt and other senior officers. Station House Officer has been apprised about the circumstances. Entry was made in the record. Sir, case has been registered in the presence of Dharamvir Singh'.

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 alleged contraband i.e., 25 injections Buprenorphine Injection Ip (Bupine) were recovered from a light yellow coloured polythene inside a white coloured polythene which have been wrongly shown to fall within the ambit of "commercial quantity" since as per the first proviso to Rule 66(ii) of the "Act", a person is legally authorize to keep/possess upto 100 doses of the above injection. Thus, such recovery which has been fastened upon the petitioner would not tantamount to the commissioning of the offence under the NDPS Act. Moreso, the investigation in this case



is complete as challan stands presented on 18.01.2024 charges stands framed on 30.07.2024 out of 18 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 it is commercial quantity of contraband which has been recovered from the petitioner, moreover, he is a habitual offender as he is involved in other FIRs also including five cases of NDPS Act as is evident from the custody certificate produced by her.

4. Analysis

Be that as it may, the question which raises in the mind of the court is not only the doubt of the alleged recovery from light yellow coloured polythene inside a white coloured polythene carried in hand by the petitioner but also the question of detaining the 100 doses of such injections to be tested during the course of the trial which is permissible under first proviso to Rule 66(ii) of the "Act" and that itself it is over and above the commercial quantity. If that is so, this offence is not within the ambit of the NDPS Act. Apart from that, another factor noted down here is that after presentation of the challan on 18.01.2024, and framing of charges on 30.07.2024, not even a single witness is tested by the prosecution out of 18 prosecution witnesses, which is sufficient for this



Court 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, the petitioner is on bail in those cases, and in this regard 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

23.05.2025
anuradha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No