

2025:PHHC:072445



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

**CRM-M-28323-2025
DECIDED ON: 27.05.2025**

SATPAL @ SATTU

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Amit Khari, Advocate
 for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

This is the third petition filed by the petitioner for grant of regular bail in FIR No. 566, dated 02.10.2023, under Sections 15 and 29 of NDPS Act, 1985, registered at Police Station Sector-29, Industrial Area, Panipat.

2. **Facts**

The brief facts of the present case, as narrated in the FIR reads as under:-

“Copy of the complaint is as follows- To, The SHO, Police Station Sector 29, District Panipat, Today, I Sub-Inspector (SI) along with EASI Dharambir Singh (135), HC Kuldeep Singh (92), EHC Joginder Singh (1687), EHC Devender Kumar (1036), Constable Narendra Kumar (306), in a government vehicle Bolero No. HRO6GV-5100 driven by EHC Satyawan

(637), were presented under Siwah flyover near bus stand for patrolling duty. At that time, secret informer met me SI and provided information that Satpal alias Sattu son of Bachchan Singh, a resident of Shodapur, P.S. Old Industrial, Panipat, will come from Gohana side and go to Panipat in his canter No. HR67D-1986, white, Ashok Leyland brand and he carrying a huge quantity of narcotics. The informer suggested that if barricading be conduct near Satsang Bhawan Siwah, GT Road, Village Siwah turn, then Satpal alias Sattu can be apprehend along with the narcotics in his canter. Believing in the information, the officers prepared a notice under Section 42 of the NDPS Act and registered the report through the diary and same was sent to police station Sector-29, Panipat through constable Narender Kumar 306. Thereafter, we left the secret informer and I SI along with my companions were reached at the turn of Village Siwah on GT road in govt. vehicle for barricading. After sometime a canter of white color was seen, coming from Gohana side. When it comes near then we see the number and number was HR67D-1986, white Ashok Leyland. Then the above said canter was stopped with the help of other companions by making hand signal. Upon questioning, the driver identified himself as Satpal alias Sattu, son of Bachchan Singh, a resident of Shodapur, Police Station Old Industrial, Panipat. Then SI served a notice under 8 Section 50 of the NDPS Act to Satpal alias Sattu, informing him of the suspicion regarding the presence of narcotics in his possession and in his canter No. HR67D-1986, white, Marka Ashok Leyland. You have a legal right under Section 50 of the NDPS Act that you and your canter search can be conducted in the presence of a Magistrate or a Gazetted Officer or you and your canter can be produced before Magistrate or a Gazetted Officer for the purpose of search. Notice under section 50 is served upon you in the presence of following witnesses, you give your consent after reading it. Notice was signed by person and EASI

Dharambir Singh (135) and EHC Devender Kumar (1036). After understanding the notice, Satpal alias Sattu, give his written consent that he along with his vehicle be search in the presence of a Magistrate or a Gazetted Officer. Reply notice is signed by Satpal and other witnesses. Then SI as per rules informed Duty Magistrate Shri Anil Kumar, Deputy Tehsildar, Matlodha, District Panipat, about the situation via his personal mobile number 9817019061) to the Magistrate's mobile number 9996148003) and requesting him to arrive at the spot. After some time, Duty Magistrate Shri Anil Kumar arrived at the scene. The SI briefed him about the situation and presented Satpal alias Sattu along with the canter no. HR67D-1986 before the duty magistrate and on asking of duty Magistrate, I SI searched by EASI Dharambir Singh (135) as per legal procedures. No incriminating items were found in the possession of SI except for his routine belongings. Recovery memo prepared separately and same was signed by apprehended person, duty magistrate and witnesses. Then on the instruction of duty magistrate Anil Kumar, I SI conducted the search of Satpal @ Sattu, nothing was found in his possession. Thereafter, I SI searched the canter and discovered 11 heavy plastic bags with white and black lids in the rear body of the vehicle. Upon opening and inspecting the bags one by one, a light khaki-colored substance in broken pieces was found. I SI and his fellow officer smelled and examined the substance. Based on their experience, it was identified as poppy husk -13 - (Doda Post), a narcotic substance, which was confirmed by apprehended person. A separate report documenting the identification and examination of the narcotic substance was prepared and signed by the accused, the Duty Magistrate, and the witnesses. Then I SI weighed the bags of poppy husk individually using a computer scale: The first black bag weighed 24 kg, which was marked as A-1, the second black bag weighed 24 kg and was marked as A-2, the third black bag

weighed 24 kg and was marked as A-3, the fourth white bag weighed 19 kg and was marked as A-4, the fifth white bag weighed 19 kg and was marked as A-5, the sixth white bag weighed 19 kg and was marked as A-6, the seventh white bag weighed 19 kg and was marked as A-7, the eighth white bag weighed 17 kg and was marked as A-8, the ninth white bag weighed 17 kg and was marked as A-9, the tenth white bag weighed 17 kg and was marked as A-10, the eleventh white bag weighed 11 kg and was marked as. The total weight of recovered poppy husk was 210 kg and planda of complete recovered doda post was prepared and sealed into bundles, each stamped with the "SS" seal, and 22 sample seals were prepared. After using the seal same were handed over to EASI Dharambir Singh (135). The bundles of poppy husk, sample seals, canter No. HR67D-1986, and vehicle registration certificate issued by DTO Panipat were taken into police possession as evidence. Search and seizure memo of property was prepared and same was signed by accused, Duty Magistrate, and other witnesses signed. Constable Narendra Kumar (306) arrived at the spot after registering the information under section 42 of NDPS at Sector 29 Police Station, Panipat, who presented the copy of DDR and original notice to me SI and I SI duly recorded them. The accused, Satpal alias Sattu, has committed an offense under Section 15 of the NDPS Act by keeping in possession of 210 kg of poppy husk. Hence, this complaint is submitted to EHC Devender Kumar (1036) for registration of FIR in his police station. FIR number should be informed after registration of case. Higher officers be informed through special report of the case and another IO be sent at the spot for further investigation. I SI is waiting for 2nd I/O at the spot. Today, the spot is identified as GT Road, Village Siwah turn, near Satsang Bhawan Siwah. SI Satbir Singh (1489), ANC/AVT Cell, Panipat, Date: 02-10-2023, Mobile: 9817019061, Time: 05:20 PM, Police Station:

after receiving the above complaint in the police station through EHC Devendra Kumar (1036), FIR No. 566, dated 02.10.2023, U/S 15 NDPS Act has been registered at P.S. Industrial Sector 29, Panipat. Computer copies were prepared by computer. The original complaint and a copy of the FIR are being sent to the 1/0 through EHC Devendra Kumar (1036), at the spot for further investigation. Remaining copies of FIR is being sent to higher officer and illaga magistrate through E-Mail and post. Note: Sir, this case is registered in CCTNS CODE of SHO and in presence of DUTY OFFICER ASI Rishiparkash.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He further contends that 210 KG of Doda Post was recovered from the Canter and nothing has been recovered from the conscious possession of the petitioner.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that recovery of 210 KG of Doda Post falls under the commercial quantity. Moreover, the petitioner was owner and driving the said canter from which the recovery stands effected. Further more, the petitioner is a habitual offender, as he is also involved in other cases also.

4. **Analysis**

Be that as it may, considering the custody period i.e. 1 year 7 months and 20 days for which the petitioner has suffered incarceration added with the facts that in the present case challan stands presented on 15.02.2024

wherein, the prosecution has cited 18 prosecution witnesses and charges are yet to be framed despite lapse of one year of presentation of challan, which is suffice for this Court to infer that the conclusion of trial would take considerable time for which the petitioner cannot be detained behind the bars for an indefinite period.

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 Nimesh 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 discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on him 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.

27.05.2025
sham

(SANDEEP MOUDGIL)
JUDGE

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