

2025:PHHC:078747



224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30926-2025

DATE OF DECISION: 03.07.2025

JASPREET SINGH @ JASSI

...PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Karanvir Singh, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked seeking regular bail to the petitioner in FIR No. 515, dated 12.12.2024 under Sections 21 and 22 of NDPS Act, 1985, registered at P.S. City Barnala, District Barnala.

2. Facts

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

“Copy of Ruqa, "SHO Police Station City Barnala Fateh, Today, I SI alongwith SI Jagdev Singh 672/Barnala, SI Lovepreet Singh 900/ Barnala, Costable Harpinderjot Singh 988/ Barnala on a Government vehicle Scorpio bearing Registration No.PB-65BF-7694 which was being driven by Constable Gurpreet Singh 233/Barnala alongwith laptop, printer and investigation kit for patrolling and checking of suspects were going from under Bridge, Khudi Kalan and Grain Market Barnala

towards Bus Stand Barnala. When the police party was about 100 meters away from water works in the Grain market then at about 07:35 PM, on the left side of the police party, two hair cut young boys were sitting beneath the light of street light pole which were seen searching for something by putting their hands in plastic polythene who on seeing the police party become nervous and tried to skip away. On apprehension, I SHO, got the vehicle stopped and apprehended both of them by taking help of colleagues and enquired regarding their identity and the first one told his name to be Ravi Kumar son of Ajit Kumar resident of Sekha Road, Street no. 12, Barnala aged about 20 years, height 5 feet 9 inch, Muslim fashion, whitish colour and the other one told his name to be Jaspreet Singh @ Jassi son of Malkit Singh resident of Sekha Road, Street no.10, Barnala, aged about 23 years, height 5 feet 8 inch, Muslim fashion, whitish colour. Then I tried to join 2-3 passerbys who were crossing the Grain Market on the spot to join the police party, everybody showed their helplessness. Then I introduced separately about myself to the apprehended Ravi Kumar and Jaspreet Singh @ Jassi above that, "I Tek Chand is an Inspector in the Punjab Police and is posted as Investigating Officer at CIA Staff Barnala and I am dressed in my uniform as per my rank and have affixed my name plate. I apprehend that you have some intoxicating or prohibited substance in your possession. So, I want to search the polythene in your possession in the presence of any Gazetted Officer or Magistrate Sahi and if you wish then any oen of such officer can be called on the spot or both of you alongwith plastic polythene coloured black can be taken to anyone of such officers. Then Ravi Kumar and Jaspreet Singh @ Jassi replied randomly that they have heard and understood what I am saying and I can search both of them and the plastic polythene colour black which is in their possession. Thereafter, Ravi Kumar and Jaspreet Singh @ Jassi were randomly explained about notice under section 50 (i) NDPS Act and notice and consent memo were separately prepared Thereafter, I conducted the search of the plastic polythene coloured black which was in possession of Ravi Kumar and Jaspreet Singh @ Jass, as per law. Then from within the plastic polythene coloured black, a small transparent pouch containing white intoxicating substance was recovered and from that plastic polythene coloured black 2 strips of intoxicating

tablets make Etiwill- 0.5 MD with misprint batch number were recovered. Thereafter, I SHO checked the recovered white intoxicating substance with the help of drug detection kit and found the white intoxicating powder to be heroine. The recovered intoxicating powder (Heroine) alongwith transparent pouch was found to be 20 grams. The parcel of recovered white intoxicating powder (Heroine) alongwith plastic polythene was prepared and sealed with my seal bearing impression TC. Then parcel of recovered 3 strips of intoxicating tablets make Etiwill-0.5 MD with misprint batch number was prepared and sealed with my seal bearing impression TC. The sample of seal was separately prepared. The seal after use was handed over to SI Jagdev Singh 672/Barnala. Thereafter, I took both the sealed parcels alongwith sample of seal into police custody by preparing separate recovery memos. The recovery memo was separately prepared. Then I conducted personal search of Ravi Kumar and Jaspreet Singh @ Jassi above one by one and from the personal search of Ravi Kumar a mobile make Apple I-Phone Golden colour touch screen and from Jaspreet Singh @ Jassi one mobile phone make Oppo Sky colour touch screen and Rs. 110/- currency notes were recovered, which were taken into police custody by preparing separate recovery memos. Separate search memo was prepared. Ravi Kumar and Jaspreet Singh @ Jassi above by keepin in their possession white intoxicating powder (Heroine) and intoxicating tablets fulfills the ingredients of offence under section 21, 22/61/85 of NDPS Act. So, ruqa against Ravi Kumar and Jaspreet Singh @ Jassi above for the above offences is typed and after taking its printout is being sent to Police Station City Barnala for registration of FIR through constable Harpinderjot Singh 988/Barnala. FIR be registered and FIR number be informed. I SHO alongwith colleagues is busy on the spot for conducting investigation. Within the territory of Grain Market, Barnala at 09:45 PM, Sd/- Tek Chand SI, CIA Barnala, dated: 12.12.2024.”

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 and nothing has

been recovered from the conscious possession of the petitioner, however, as per the allegation, 20 grams of Heroine and 3 strips of intoxicating tablets Etiwill-0.5 MD each strip containing 10 tablets, was recovered from the petitioner and co-accused Ravi Kumar. The quantity so recovered from the petitioner falls under non-commercial quantity.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner has suffered incarceration of 6 months and 18 days, as of now,

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that there is direct allegation against the petitioner that 20 grams of heroine along-with 30 intoxicating tablets were recovered from the petitioner and his co-accused.

4. Analysis

Be that as it may, considering clean antecedents of the petitioner as well as the fact that the quantity recovered from the present petitioner falls under non-commercial coupled with the facts that, in the present case charges have been framed on 29.04.2025 and out of total 13 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial would 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

03.07.2025
sham

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