



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

CRM-M-29943-2025

Date of Decision:02.07.2025

SATNAM SINGH @ SATTA

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Maini, Advocate for the petitioner.
Mr. Sandeep Singh, AAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in in FIR No. 59 dated 03.04.2019 under Section 22/61/85 of NDPS Act registered at Police Station City South Moga, District Moga.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Today, I. ASI alongwith ASI Kulwant Singh No. 133/M.H.C Jagsir Singh No.84/H. Ct. Jagtar Singh No.1317/M.CL Hardip Kumar No. 183/M through private vehicle Car Swift which was being driven by HC Jagsir Singh, in respect of patrolling and in search of suspected persons were going from Dev Hotel, Main Bazar to New Town, Moga when police party reached crossing Old City Road Arya Model School New Town Moga, opposite street No.1 and 2, then from Arya School, from north side, one person hair cut was seen coming on foot carrying in his right hand one polythene envelope of black colour heavy weight article, suddenly puzzled, stopped at the corner of Arya School. Then, I, ASI stopped the car and got out and on the basis of suspicion saw that person, then the said person after seeing the police suddenly



got puzzled, throw down the polythene envelope carried by him in his right hand and after turning backside started running, then, I ASI on the basis of suspicion with the help of colleague police officials apprehended him and asked his name and address where he revealed his name Satnam Sels Battles of Patwinder Singh alias Tola non of surgit Singh, resident of Jalalaba Road, village Kolari Kalan, then I. Att, tried to join the general public as witness, but nobody offered to become witness to the incident, then I asked the person who was apprehended that I have suspicion that your nearby and thrown polythene envelope under you of black colour contained some narcotics article, therefore, your search and search of thrown polythene envelope of black colour is to be conducted. But you have the got legal right that you can get your search and search of the black envelope thrown down by you, through a Magistrate or any Gazetted officer whom I can call. On this he asked me, ASI, that I have got full trust in you that whatever article I had with me, the same will be found out, therefore, you can conduct my search and search of thrown away polythene envelope of black colour. Upon which the individual consent memo was prepared and, on the memo, Satnam Singh appended his signatures in Punjabi and on the memo ASI Kulwant Singh No.133/M.HC Jagsir Singh No.84/M appended their signatures as witness. Then, I, picked up black coloured polythene envelope lying on ground and opened the same in which two packs of narcotics tablets were recovered and their counting was done. 50 packs of ALPREST-0.5, alprazolam 0.5 and each pack contained 10 narcotics 10005 aut manufacturing share 2018 data 2021, 10000 narcotics tablets and 70 packs of PROZOLAM 0.5, alprantam 0.5 each pack contained 10 narcotics tablets, total 700 narcotics tablets having batch No. PR 18014, manufacturing date Dec, 2018 and expiry date Nov., 2021, total 1200 narcotics tablets were recovered, the same were put in polythene envelope one parcel was prepared and put my stamp of word PS and one sample of stamp was prepared and Form No. 29M was separately prepared and stamp after use was handed over to ASI Kulwant Singh. Then, I, ASI, separate memo of parcel of narcotics tablets and sample was prepared and after putting stamp Form No. 29 M was separately prepared. Sample was taken into police custody.



On the custody memo witnesses appended their signatures, Then, I, ASI, conducted search of apprehended person and from the right pocket of lower two currency notes of 100 each amounting to Rs.200/- were recovered which were taken into police custody vide separate custody memo. Satnam Singh appended his signatures in Punjabi on the custody memo. The witnesses appended their respective signatures. Satnam Singh did not produce any license or permit for keeping these narcotics tablets, who by keeping with him narcotics tablets committed offence under Sections 22, 21, 85 of NDPS Act. So written message for deme FIR against Satnam Singh was sent through CT Hardeep Kumar to Police Station. After registration of FIR. its number be intimated. Special reports be issued. Intimation to PCR be sent. I am busy in investigation. Sd/Pahara Singh, ASI Police Station city South, Moga. Jurisdiction Crossing Old City Road, New Town Moga, At 07.00 P.M. Dated: 03.04.2019. Today, upon receipt above written message in the police station, the above said case under above offences against above said accused has been registered. Original recorded message alongwith copy of FIR through police official has been sent to ASI. Intimation to PCR is being given through wireless message. Special reports after issue are beings sent through Ct. Sukhjit Singh No. 425/Moga to Illaqa Magistrate for information. Reput No.38 dated 03.04.2019 at 08.00 P.M. entered.

3. **Contentions on behalf of the petitioner**

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case by implanting false recovery of 1200 intoxicant tablets on him. He further submits that the petitioner is in custody since 03.04.2019 and there is non-compliance of Section 42 and 50 of NDPS Act.

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 the recovery effected from the petitioner falls under the commercial quantity.

4. **Analysis**

Be that as it may, considering the custody period i.e. 01 year 07 months and 02 days for which the petitioner has suffered incarceration; the petitioner was nominated as an accused by implanting false recovery of 1200 intoxicant tablets on him in addition to the fact that investigation is complete, challan stands presented to Court on 06.07.2019, charges have been framed on 08.08.2019 and total 13 prosecution witnesses have been cited, out of which only 04 have been examined till date, which is suffice for this Court to infer that the conclusion of trial will take long 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 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”, SLO (Cr1.) 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 concession of bail.

5. **DECISION:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on his 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.

(SANDEEP MOUDGIL)
JUDGE

02.07.2025

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