



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

270

CRM-M-31246-2025
DATE OF DECISION: 04.07.2025

HARPREET SINGH ALIAS HAPPY**...PETITIONER****Versus****STATE OF PUNJAB****... RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Ms. Shanika Khurmi, Advocate for the petitioner(s).

Mr. Sandeep Singh, AAG, Punjab.

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

This petition has been filed under Section 483 of BNSS. 2023 for grant of regular bail pending trial to the petitioner in FIR No. 67 dated 06.04.2020 (Annexure P-1) under Sections 22-61-85 of NDPS Act, 1985 & Section 188 of IPC registered at Police Station Tanda, District Hoshiarpur, in the interest of justice.

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

‘Officer in-charge, Police Station Tanda Jai Hind, today ASI Jaspal Singh 1348 along with Ct. Puneet Kumar 768/1HSP, Ct. Gagandeep Singh 1406/HSP and PHG Gurdeep Singh 25939 were patrolling on a government vehicle with registration number PB-07-BG-1270 in connection with checking and search of bad



elements and curfew imposed after outbreak of Covid 19, the driver of the vehicle was Ct. Gaurav Rana 1616/HSP and when they were present at adda Jhansa, a secret informer gave information to them that Harpreet Singh alias Happy son of Satnam Singh, resident of Khakha, P.S. Tanda, Varinder Singh alias Bindri son of Karnail Singh, resident of Bassi Jalal, P.S. Tanda and Harjit Singh alias Mintu son of Baldev Singh, resident of Baicha, PS Tanda, District Hoshiarpur are consuming intoxicating substance and were waiting for their customers to supply them intoxicating substance in the abandoned shops in front of Hardeep Marble House ahead of Tarlok and Sons Mills. On this ASI Jaspal Singh and other members of the police party reached near the abandoned shops as disclosed by the secret informer and nabbed three persons from there and on the suspicion of some intoxicating substance in their possession ASI Jaspal Singh gave information to the police station through mobile phone and requested to send a competent officer at the spot. A rapt was entered in this regard in Roznamcha and I, SI alongwith ASI Tara Singh 1400/HSP and HC Prabhjot Singh 1286/HSP. reached at the spot. I, SI enquired about the names and addresses from the 3 young boys detained by ASI Jaspal Singh at the spot. One of the person amongst them disclosed his name as Harpreet Singh alias Happy son of Satnam Singh, resident of Khakha, PS Tanda, the second person disclosed his name as Virender Singh alias Bindri son of Karmail Singh, resident of 6 Bassi Jalal, PS Tanda whereas the third person disclosed that his name as Harjit Singh alias Mintu son of Baldev Singh. resident of Baicha, PS Tanda. Thereafter, I, SI asked them as to why they were sitting there despite imposition of curfew, on this they disclosed that they were to consume and sell the intoxicating substance to their customers I ASI told them that their personal search is to be conducted but they have got a legal right to get their search conducted from a magistrate or gazette officer and if they so require I can make necessary arrangements but above stated persons replied that they have full faith in me and I can conduct their personal search. On this consent under section 50 of the NDPS Act of above stated



persons namely Harpreet Singh alias Happy, Varinder Singh alias Bindri and Harjeet Singh alias Mintu was taken and before conducting their search efforts were made to join a witness from public but nobody from the public could be joined because of imposition of curfew. Search of Harpreet Singh alias Happy was conducted and intoxicating substance wrapped in a polythene envelop was recovered from the right pocket of his trouser, the weight of which was conducted at the spot with the help of digital weighing machine and same was 122 grams. The recovered intoxicating substance was put the same polythene envelop and a parcel of the same was prepared by putting the same in a plastic box. From the left pocket of Harpreet 12 syringes, 1 lighter and 2 pannis were recovered of which a separate parcel was prepared. Personal search of Varinder Singh alias Bindri was conducted and 135 gram intoxicating powder wrapped in a polythene envelope was recovered from his right pocket and from the same polythene envelope 13 syringes, 1 digital weighing machine, 1 light and 2 burnt pannis were recovered. The recovered intoxicating substance was put in the polythene envelop and a parcel of the same was prepared by putting the same in a separate plastic box whereas separate parcel of recovered syringes, lighter and pannis was prepared. Upon personal search of above mentioned Harjeet Singh alias Mintu, intoxicating substance wrapped in a polythene envelope was recovered from his left pocket the weight of which was conducted and same was 105 grams, which was kept in a plastic box in the same plastic envelope and parcel of the same was prepared. From his second pocket X syringes, 1 lighter, 2 pannis and 1 burnt Sapoon were recovered of which a separate parcel was prepared. I SI stamped all the parcels with my stamp CS and sample stamp was prepared separately. The stamp was handed over to ASI Jaspal Singh after use. All the parcels were taken into police possession through recovery memo. Above stated Harpreet Singh alias Happy son of Satnam Singh, resident of Khakha, P.S. Tanda, Varinder Singh alias Bindri son of Karnail Singh, resident of Bassi Jalal, P.S. Tanda and Harjit Singh alias Mintu son of Baldev Singh, resident of Baicha, PS Tanda, District



Hoshiarpur have committed offence punishable under section 22-61-85, NDPS Act and section 188 of IPC by violating the curfew order issued by Deputy Commissioner Hoshiarpur due to outbreak of Covid 19 and by keeping intoxicating substance in their possession for supplying the same to their customers. A ruqa has been written and is being sent to police station by hand CT Gagandeep Singh for registration of a case. Case be registered and its number be intimated. Intimation be given to control room. Special reports be issued to senior officers. I ASI and other officials are conducting investigation at the spot. SD/-Sahil Chowdhary SI, PS Tanda, district Hoshiarpur, dated 06.04.2020 today the area of opposite Hardeep Marble House, Dashmesh Nagar at 1:30 PM.'

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. She submits that as per the case of prosecution, 122 grams of intoxicant powder has been recovered from the petitioner. Moreso, the investigation in this case is complete as challan stands presented on 28.09.2021 charges stands framed on 26.02.2024 and since then, out of 9 prosecution witnesses, only 2 PWs have been examined so far which is sufficient to infer that the trial is moving at a very slow speed and 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 is a habitual offender as he is involved in other FIRs.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 years, 1 month and 28 days, the investigation in this case is complete as challan stands presented on 28.09.2021 charges stands framed on 26.02.2024 and since then, out of 9 prosecution witnesses, only 2 PWs have been examined so far which is sufficient to infer that the trial is moving at a very slow speed and conclusion of trial is likely to take considerable time and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, 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, 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

04.07.2025

anuradha

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