



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

265

CRM-M-30961-2025
DATE OF DECISION: 04.07.2025

NAWAB AHMAD

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanpreet Sandhu, Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

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

This petition has been filed under Section 483 of the BNSS, 2023 seeking the concession of regular bail for the petitioner in FIR No. 254 dated 18.06.2024 under Sections 22-C, 29 of NDPS Act, 1985 registered at P.S. Gandhi Nagar, District Yamuna Nagar.

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

‘Copy of Written is as follows: To, officer Incharge, Gandhi Nagar District Yamuna Nagar, Jai Hind. Today SI Satish Kumar No. 139/A along with ESI Satish Kumar No. 601/YNR, EASI Birbal No. 76, HC Rajendra Kumar No. 708 along with passenger vehicle government vehicle No. HR02GV-9188 brand Bolero whose driver is EHC Kamaljeet No. 741 along with laptop, printer and I/O kit



were present near Vishwkarma Chowk Yamuna Nagar at 05.50 PM for patrolling and investigation of crime from ANC Yamuna Nagar when a special informer met the SI and gave secret information that Deepak alias Tissue, son of Jagan Bahadur, resident of barrack no. 16, near Camp Park Camp, District Yamuna Nagar, who sells narcotic capsules, which even today Deepak alias Tissue was found wrapped in a black foil in the street outside his house. He is standing with the narcotic capsules waiting for a customer to sell them. If an immediate raid is conducted then Deepak alias Tissue can be caught along with the narcotic capsules. As the information was from a sure and trustworthy person, the SI informed about the information from his mobile number 9588734234 to Shri Kanwaljit Singh, HPS, Deputy Superintendent of Police (Headquarters), Yamuna Nagar on his official mobile number 8818000104 at 06.00 PM and a separate information letter under section 42 of NDPS Act was prepared and sent to Shri Kanwaljit Singh, HPS, Deputy Superintendent of Police (Headquarters), Yamuna Nagar at 06.10 PM for information and was handed over to ESI Satish Kumar No. 601/YNR and sent to his residence at Police Line, Jagadhari. For registering a report, the information about the informer was sent from ancynr20@gmail.com to the Police Station ID shogandhinagarynr@gmail.com at 06.15 PM. The SI requested the people coming and going to the spot to join the raiding party and become witnesses in the investigation but all the people expressed their helplessness and left the spot. Then the SI informed his fellow officer about the information and went along with the special Informer in a government vehicle at the time mentioned by 06. At 9 PM, the camp park reached at the turn of the street of Yamuna Nagar where the special informer stopped the government vehicle and sitting in the vehicle, pointed towards a boy standing near a Neem tree and told the SI that the boy seen standing in front wearing a white T-shirt and grey lowers and holding a black polythene bag in his right hand is Deepak alias Tissue and the special informer got down from the government vehicle and went away. The SI, as per the information given by a special informer,



stopped the government vehicle near the boy, got down from the vehicle and with the help of a fellow employee overpowered the boy and asked his name and address, who told his name as Deepak alias Tissue son of Jagan Bahadur resident of barrack no. 16 near Camp Park Camp, police station Gandhi Nagar, district Yamuna Nagar. The SI prepared a notice under section 50 of NDPS Act and read it out to the accused Deepak alias Tissue and asked him that there is a suspicion about the presence of narcotic capsules in the black polythene held in your right hand, you or the polythene held by you needs to be searched, you have the legal right that you or the polythene held in your hand should be searched by a magistrate or a gazetted officer, you are given time to think and understand. Deepak alias Tissue, in reply to the notice under section 50 of NDPS, after much thought said that I want a gazetted officer to search me and the black coloured polythene bag in my hand, on which a written consent was prepared by the SI. Accused Deepak alias Tissue and the witnesses signed the written consent. Then the SI at 06.50 PM from his mobile number 9588734234 contacted gazetted officer Anshuman Thukral, ETO Jagadhri Yamuna Nagar on informed his mobile number 9812600449 and him requested him about the circumstances to come to the spot, on and the request of the SI he agreed to reach the spot. Gazetted officer Anshuman Thukral, ETO Jagadhri Yamuna Nagar, reached the spot at 08.30 PM in a government vehicle number HR02GV-9891 brand Bolero along with his staff. On reaching there, the SI explained the circumstances before the gazetted officer and produced Notice 50 NDPS Act and consent letter, accused Deepak alias Tissue above and witnesses. The gazetted officer introduced his identity to accused Deepak alias Tissue above and interrogated the witnesses separately. The gazetted officer seized the Notice 50 NDPS Act and consent letter and then the gazetted officer carried out the personal search of the SI as per law. During the personal search of the SI, no suspicious item other than the daily items was recovered. A report of personal search of the employee and his recovery was prepared. The witnesses signed the report and the Gazetted Officer attested the report and then as per the order of



the Gazetted Officer, the SI conducted a search of the accused Deepak alias Tissue as per law and no narcotic substance was recovered from his clothes and the black colored polythene held in the right hand of the accused Deepak alias Tissue was checked. On checking the polythene, 20 strips of banned narcotic capsules were recovered from it, each strip having 24 capsules, total 480 capsules were recovered, which were written on 10 strips, Tramadol Hydrochloride, Paracetamol Dicyclomine Hydrochloride Capsules, brand SpasoNof-Nf Capsules B.NO C-2403024, MFG 03/24, EXP 02/26, MFD BY: Rhydburg Pharmaceuticals Ltd (A WHO-GMP Certified Company C 23, SIEL Selaqul Dehradun Uttarakhand -248197 is written and on 10 strips in English Dicyclomine Hydrochloride Tramadol Hydrochloride Acetaminophen Capsules brand Parvion Spas, B.NO C-240401, MFG APR 2024 EXP MAR 2026, MFD MKTD BY SOUL HEALTHCARE (1) PRIVATE LIMITED (AN ISO 9001-2015 GMP GLP CERTIFIED COMPANY) 7TH KM. JASPUR ROAD KASHIPUR-244713 (UK). The accused Deepak alias Tissue was asked to produce permit or license for keeping capsules in the verandah, who could not produce any license or permit on the spot for having capsules in his possession, then he was arrested. The SI contacted Mrs. Ritu Mehla, Drug Control Officer, Yamunanagar on her number 9258200008 and told her to reach the spot after informing her about the situation, who asked the SI to take photos of the Barada capsules and a written application and send it on WhatsApp, which the SI took photos of the Barada capsules and the application from his WhatsApp number 9588734234 at 08.30 PM and sent it to the WhatsApp number of Mrs. Ritu Mehla, Drug Control Officer, Yamunanagar 9258200008. I took out an electronic weighing scale from the 10 kit and took out 8 capsules from a leaf of the banned narcotic capsules of Barada B.N. C-2403024 and weighed the capsules. Upon weighing, the weight of 8 capsules was found to be 4.43 grams, which made the weight of 240 capsules 132.9 grams. Then the SI took out 8 capsules from a leaf of prohibited narcotic capsules B.N. C-240401 and weighed them. Upon weighing, the weight of 8 capsules was 4.49 grams,



which means that the weight of 240 grams capsules was 134.7 grams, which means that the total weight of the prohibited narcotic capsules was 267.8 grams. While weighing with the electronic scale, the SI took photographs with his personal mobile phone, which will be prepared by a photographer and will be used for matching. At 09.00 PM, Smt. Ritu Mehla, Drug Control Officer, Yamunanagar, sent her written report regarding the above mentioned prohibited narcotic capsules through WhatsApp, which is as follows: To, SI Satish Kumar ANC, Yamunanagar, Subject -Comments regarding the application dated 18.06.2024 by ANC, Yamunanagar In reference to application moved by SI Satish, Kumar, ANC Yamunanagar dated 18.06.2024. Tramadol falls under the category of NDPS Act Ritu Mehla DCO Yamunanagar-1 was received and then the SI put the banned narcotic capsule B.NO C-2403024 in the same black colored polythene and prepared a cloth bed and then the SI arranged for another black colored polythene and B. After putting NO C-240401 in polythene, another cloth sheet was prepared. The SI universally stamped both the sheets of the case material with 3/3 seal of SK and the gazetted officer also universally stamped both the sheets of the case material with his 1/1 seal of AS and sample seal was prepared separately. The SI, after affixing the seal, handed over the sheet to HC Rajendra Kumar No. 708/YNR or the gazetted officer kept it with himself after affixing his seal. The sheet containing banned narcotic capsules was taken into police possession as reason evidence by the individual. A report of recovery of narcotic capsules was prepared on which accused Ravi Kumar and the witness put their signatures and the report of recovery was attested by a gazetted officer. Then, during the personal search of accused Deepak alias Tissue, the SI found a mobile phone of brand POCO of sky blue colour with SIM number 7404618801 in the left pocket of his grey coloured lower. 3 notes of Rs. 100 and 1 note of Rs. 50, which amounted to a total of Rs. 350, which were put in a separate white coloured envelope and taken into police possession. The report of personal search was prepared by the accused and the witness. The gazetted officer attested the report of personal search. Accused



Deepak alias Tissue, son of Jagan Bahadur, resident of Barrack No. 16, near Camp Park Camp, Police Station Gandhi Nagar, District Yamuna Nagar, has committed the offence under Section 22 C of the NDPS Act by having 480 prohibited narcotic capsules in his possession without a licence or permit. Therefore, after writing the written complaint, for the registered case, EASI Birbal No. 76 has the police station, after registering the Case number, inform the concerned officers, special report of the case should be informed and for sending another investigation officer to the spot for further investigation, ANC Incharge Yamuna Nagar was informed through Bajaria mobile phone. I am busy in investigation at the spot. Today Near Camp Park Camp Yamuna Nagar SD/- SATISH KUMAR SI ANC Yamuna Nagar Date 18.06.2024 Time 09.50 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. He submits that nothing has been recovered from the petitioner and the petitioner was nominated on the basis of the disclosure statement made by co-accused Tasleem @ Monu who was named by main accused Deepak @ Tishu and thus, petitioner has been inculpated with the aid of Section 29 of NDPS Act. He has further argued that 480 capsules i.e. 267.8 grams containing of Tramadol Hydrochloride, Paracetamol and Dicyclomine Hydrochloride, was recovered from co-accused Deepak @ Tishu son of Jagan Bahadur. Moreover, the investigation in this case is complete as challan stands presented on 30.12.2024, charges are yet to be framed and 17 PWs are cited by the prosecution 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 the petitioner is a habitual offender as he is involved in other FIR also but is not in a position to controvert the submissions made by learned counsel for the petitioner.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 9 months and 4 days, nothing has been recovered from the petitioner, whatever recovery has been effected from the co-accused and the petitioner was nominated on the basis of the disclosure statement made by co-accused, as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 30.12.2024, charges are yet to be framed and 17 PWs are cited by the prosecution which is sufficient 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, 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

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