



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-32172-2025
DATE OF DECISION: 16.06.2025

BALWINDER SINGH @ BINDER SINGH**...PETITIONER****Versus****STATE OF PUNJAB****... RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. P.S. Sekhon, Advocate for the petitioner(s).
Mr. J.S. Rattu, DAG, Punjab.

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. 32 dated 24.03.2025 under Sections 22 and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Passiana, District Patiala.

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

‘At this time it has been registered that one written ruga from SI Harbhajan Singh no. 497/PTL posted as Incharge police post Dakala PS Passiana has been received in PS by hand PHG Rajwant Singh 30218 for the registration of case against Rinku son of Boli Ram resident of village Sher Majra, PS Pasyana District Patiala under section 22/61/85 NDPS Act, the contents of ruga are: To, The SHO PS Passiana, Jai Hind, Sir today I SI along with ASI Dharam Singh 1367/PTL, HC Amrinder Singh 807/PTL, SCT Lakhwinder Singh 3263/PTL and PHG Rajwant Singh 30218 in govt. vehicle bearing registration no. PB 11 BY 6912 having



laptop, printer and accessory along were present at Main Chowk in relation to search of suspicious persons and bad elements, meanwhile it would be time around 5:40 PM, a secret informer came present and informed to I SI that Rinku son of Boli Ram resident of village Sher Majra, PS Pasyana District Patiala, whose particulars are: aged about 28 years, height around 5' 6", cropped hair and trimmed beard, colour complexion dusky, body thin and active and today he is wearing white colored shirt having two blue flowers printed on it and black colored pant. The said person is indulged in the sale of narcotics. Today also the said person is standing beneath the under-bridge of village Sher Majra and waiting for the customers passing through to sell intoxicant tablets to them. If raid be conducted immediately then said Rinku can be apprehended along with intoxicant tablets. On which I SI along with police party reached beneath the under-bridge of village Sher Majra as informed by the secret informer, where one young person having particulars as informed by secret informer was standing by holding one polythene bag of black colour in his right hand. On seeing the police party he got perplexed and immediately threw away the polythene bag of black color held in his hand to the ground and tried to run away. On which I SI with the help of fellow policemen apprehended that young person and asked about his name and address. On which he disclosed his name as Rinku son of Boli Ram resident of village Sher Majra. Thereafter I SI made familiar said Rinku familiar about notice under section 50 NDPS Act. The said Rinku after getting aware and making understood about notice under section 50 NDPS Act served by I SI and after thinking for a while replied that I have faith in you. I do not want to get my search and search of heavy polythene bag of black color thrown away by me from any Gazetted Officer of Magistrate. You can get my search and search of polythene bag thrown away be me. His memo of consent was prepared. Notice under section 50 NDPS Act and memo was being signed by said Rinku and witnesses. I SI made every possible effort to join private witness at the spot, but each one left by stating their own inability. Thereafter I SI picked up the said polythene bag of black colour thrown away



by said Rinku and checked the same by opening it. From which loose intoxicant tablets of white colour were recovered. The said Rinku was asked about any license/permit for keeping in his possession loose intoxicant tablets of white colour, on which he could not produce any license/permit at the spot. The recovered loose intoxicant tablets of white colour were counted, on which these became 190 loose intoxicant tablets. Thereafter the loose intoxicant tablets of white colour were put back 11 into the same polythene bag of black color by I SI and by putting the polythene bag into a cloth bag, its parcel was prepared. The parcel was duly sealed by I SI with my seal bearing impression HS. Sample seal was prepared separately, the seal after use was handed over to ASI Dharam Singh 1367/PTL. Thereafter said parcel along with sample seal was taken into police possession as evidence by I SI vide separate memo of recovery. Memo was being signed by witnesses. In this manner the act of said Rinku by keeping in his possession loose intoxicant tablets of white colour fulfils the ingredients of commission of offence under section 22/62/85 NDPS Act. Therefore sending the ruga to PS by hand PHG Rajwant Singh 30218 for the registration of case against said Rinku under said offence. Kindly inform the number of the file after registering the case and inform higher officials and I/C control room Patiala through Email. I SI along with fellow policemen am busy in investigation at the spot. In the revenue limits of: Under-bridge village Sher Majra at 7:15 PM. SD/Harbhajan Singh SI, I/C Police Post Dakala, PS Passiana dated: 24.03.2025.'

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. As per the allegations, 190 loose intoxicants tablets containing 21.09 gram of Burenorphine has been allegedly recovered. He submits that the petitioner was arrayed as accused on the basis of the disclosure statement



made by co-accused Rinku. He further submits that he has neither any connection with the co-accused Rinku nor with the alleged recovered contraband. Moreso, nothing is to be recovered from the present petitioner, 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 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. 2 months and 6 days, there is recovery of 190 loose tablets, so, probability of false implication cannot be denied and he was nominated in the present FIR on the basis of the disclosure statement of co-accused and 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 has not been filed, which is sufficient for this Court 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

16.06.2025
anuradha

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