

CRM-M-47451-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-47451-2025 (O&M)****Reserved on : 01.10.2025****Pronounced on : 28.10.2025**

Sushil Kumar

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

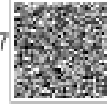
Argued by: Ms. Shruti Jain, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Section 22C of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as 'NDPS Act' only, the FIR No.203 dated 25.11.2022 has been lodged in Police Station Amloh, District Fatehgarh Sahib. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail. This is first petition, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being when a police party headed by ASI Sanjeev Kumar was conducting routine checking of vehicles at Dholanwala Chowk, where a Zen car bearing registration No.PB11-L-1181 arrived. According to

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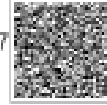
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prosecution, when the car driver spotted a police party on his way ahead, he got perplexed, and out of panic tried to take a U-turn. As per prosecution due to abovementioned suspicious behaviour, the abovementioned car was intercepted by the police party, wherein two persons were travelling. According to the prosecution, the driver disclosed his name as Sushil Kumar (petitioner), and the other one as Rakesh Kumar.

3. It is the case of the prosecution that on the basis of suspicion, after completing requisite formalities when search of the car was conducted, from the dashboard of the car one black polythene envelope was recovered. In the abovementioned polythene bag, there were 20 strips of Celcidal-100 SR (Tramadol Hydrochloride tablets 100mg) (total 1200 tablets). According to prosecution, for being in possession of such a huge quantity of abovementioned intoxicating tablets, the occupants of the car were not having any permit or license, and thus, the abovementioned tablets were seized and the occupants of the car were arrested.

4. Heard.

5. It has been contented on behalf of the petitioner that the present case is one of the rare cases, wherein on examination of a sample, the Forensic Science Laboratory did not detect any intoxicating content in the tablet. As per learned counsel for the petitioner, in the report prepared by the Forensic Science Laboratory, Chlorpheniramine Maleate was found in the tablet, and therefore, the learned trial Court accorded the benefit of bail to the petitioner, subject to the condition that if any intoxicating content is



found in the recovered tablets, the benefit of bail accorded to him, would stand withdrawn.

6. The learned counsel for the petitioner has further argued that without any reason, the Investigating Officer applied for testing of second sample by Central Forensic Science Laboratory, and the abovementioned Forensic Science Laboratory in violation of guidelines laid down by the Hon'ble Supreme Court of India in the case of '*Thana Singh Vs. Central Bureau of Narcotics*', 2013(2) SCC 590, and in violation of provisions of Section 52 NDPS Act, submitted the report beyond the prescribed period, and thereafter, the petitioner has been arrested.

7. *Per contra*, the learned State Counsel has argued that huge quantity of intoxicating tablets was found in the possession of petitioner, without any permit or license, and that in view of report of by Central Forensic Science Laboratory, the petitioner has committed an offence punishable under Section 22C of NDPS Act. According to learned State Counsel, merely, because in the first report, any intoxicant content was not detected in the samples, it does not mean that the petitioner is not guilty of offence punishable under Section 22C of NDPS Act. As per learned State Counsel, the report of Central Forensic Science Laboratory is more reliable piece of evidence, and implicates the petitioner in the commission of abovementioned offence.

8. The record has been perused carefully.

9. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, before



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arriving at any decision with regard to present petition for bail. Those factors are: -

- i) that the petitioner has already served a lot of incarceration for being in custody for a period of almost 09 months;
- ii) that in the present case, there are two reports of Forensic Science Laboratories, and out of two reports, one favours the petitioner;
- iii) that there is a debatable question as to whether the timeline prescribed under the law was followed in testing the second sample or not;
- iv) that there is also a debatable question as to whether there was any justification with regard to testing of second sample or not, and as per contents of petition, the abovementioned question is under consideration before this Court in another petition;
- v) that nothing is left to be recovered from the possession of petitioner;
- vi) that the trial is not likely to be concluded in near future;
- vii) that detention of petitioner in judicial lockup is not likely to serve any purpose; and
- viii) that there is nothing on record to show that if released on bail, the petitioner may influence the witnesses.

10. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", 2018(2) R.C.R. (Criminal) 131, has observed that "*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. 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”.

11. The principles laid down by the Hon’ble the Supreme Court of India in the case of **‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’**, 2022 LiveLaw (SC) 577, are also relevant in this case. In the abovementioned case, it has been observed that *“the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided*



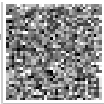
strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

12. 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.

13. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail.

14. Accordingly, without commenting anything on the merits of the case, the present petition is hereby allowed. The petitioner is hereby ordered to be released on bail on his furnishing bail bonds and surety to the satisfaction of trial Court, subject to the following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Investigating Officer/the Court concerned and shall inform any change in his residential address to the Court, till the final disposal of the case; and



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(iii) that the petitioner shall not leave India without prior permission of the trial Court.

15. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

OCTOBER 28, 2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No