

2025:PHHC:089902



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

**CRM-M-53191-2024
DECIDED ON: 22.07.2025**

JASPREET SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Ahluwalia, Advocate and
Mr. Jaiveer Singh, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 483 BNSS, 2023 seeking regular bail to the petitioner in case FIR No.76 dated 16.03.2024, under Sections 18/29 of NDPS Act, registered at Police Station Parao Ambala, District Ambala.

2. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner at the very outset has disputed the time of arrest on 16.03.2024, arguing that, as per the prosecution's version, secret information was received at 3:00 PM, following which the petitioner was intercepted at a naka point at 3:40 PM. Thereafter, the DSP was allegedly called at

4:00 PM, and the petitioner was formally arrested at 6:20 PM. However, the petitioner contends, by relying on CCTV footage and photographs annexed as Annexure P-2, that he was in fact apprehended at around 6:30 AM on 16.03.2024. It is submitted that, in order to fill the gap in the prosecution's narrative, a fabricated version of events has been created, including the alleged receipt of information and subsequent proceedings recorded in the Daily Diary Report (DDR).

In support of his contention, Mr. Ahluwalia, learned counsel for the petitioner, further refers to an order dated 12.04.2024 passed by the learned Additional Sessions Judge, Ambala, on the petitioner's application seeking preservation of CCTV footage from 5:00 AM to 7:00 AM on 16.03.2024, covering all entry and exit gates of the Ambala Cantt Railway Station. In the said order, the Station House Officer (SHO), Police Station Parao, Ambala Cantt, along with the owner of Hotel Neelkamal (located opposite the railway station), was directed to preserve the said footage as prayed for.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 1 year 3 months and 29 days.

Additional Status report filed by way of an affidavit of Ramesh Kumar, HPS, Deputy Superintendent of Police Ambala Cantt, District Ambala, is taken on record.

In the status report in para 7, it has been stated before this Court, which reads as under:-

“That it would be further relevant to submit here that the present case was registered on 16.03.2024 and at that time the CCTV Cameras

having capacity of one month backup was installed in PS Parao and the recordings of cameras were deleted automatically after expiry of 30 days. However, thereafter, the other CCTV Cameras were installed in all of police stations and police posts by Haryana Police, Housing Corporation, Haryana having capacity of minimum six months backup which started working w.e.f. 20.06.2024 and the control of the OTA cameras were handed over to the police department by Haryana Police, Housing Corporation, Haryana. The copy of letter of HPHC bearing no. HPHC/SE/PKL/942 Dated 03.08.2025 is annexed as Annexure R-4.”

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the quantity of 4 kg of *opium* was recovered from the petitioner, which is commercial in nature, therefore, rigours of Section 37 of NDPS would be attracted in the present case. Additionally, she submits that the petitioner is a habitual offender, as he is involved in another case.

3. **Analysis**

Though, the present case involves the alleged recovery of a substantial quantity of contraband, specifically 4 kilograms of opium, from the petitioner, who was allegedly carrying a polythene envelope in the company of other co-accused persons but the prosecution's laxity becomes evident from the contents of the status report filed by way of an affidavit by an officer of the rank of Deputy Superintendent of Police, Ambala Cantt. In his affidavit, the officer states that the relevant CCTV footage is no longer available, and in the very next breath attempts to justify its unavailability by asserting that the footage was automatically deleted due to the installation of new equipment with higher storage capacity on 20.06.2024.

Such an explanation is not legally tenable and runs contrary to the mandate laid down by the Hon'ble Supreme Court in ***Paramvir Singh Saini v. Baljit Singh & Others***, 2021 (217) AIC 46, wherein the Court made the following pertinent observations:

“The Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a Police Station to entrust the SHO of the concerned Police Station with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras. The SHO should also be made responsible for CCTV data maintenance, backup of data, fault rectification etc.”

CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet systems that are provided must also be systems which provide clear image resolutions and audio. Most important of all is the storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months. If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market. The affidavit of compliance to be filed by all States and Union Territories and Central Government shall clearly

indicate that the best equipment available as of date has been purchased.

As far as the consideration of regular bail of the petitioner is concerned, out of total 23 prosecution witnesses, only 1 has been examined after framing of charges on 28.10.2024 and the petitioner has suffered incarceration of 1 year, 3 months and 29 days by now, it would be unjust and unfair to detain the petitioner behind bars for an indefinite period as his guilt is yet to be proved after completion of the trial.

Reliance can be placed upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal)***

131. 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 contention of learned State counsel with regard to 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 lend the petitioner in a situation of denial the concession of bail.

4. **Relief:**

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

22.07.2025
Meenu

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