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

CRM-M-58106-2024

DATE OF DECISION: 11.03.2025

MANOJ KUMAR**...PETITIONER**

Versus

**NARCOTICS CONTROL BUREAU (NCB) CHANDIGARH AND
ANOTHER**

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Sarbjit Singh, Advocate for the petitioner(s).

Dr. Anju Sharma, Advocate for respondent No.1.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 of BNSS, 2023 for grant of Regular bail to the petitioner in case NCB Crime No. 37 Dated 27/05/2021 under Sections 8/21/22/25/29/35/54/60/61/85 of NDPS Act, 1985 registered by Narcotics Control Bureau NCB, Chandigarh.

2. Facts

The prosecution's case, as per the evidence, is as follows:
On 27.05.2021, a confidential tip-off was received by Sh. Vikash Singh, Intelligence Officer in the Narcotics Control Bureau (NCB), Sub Zone, Amritsar, indicating that a suspicious parcel, believed to contain narcotics, had been delivered to the DTDC office in Amritsar. The parcel had been sent by Mukesh Agency, Baltora, District Jodhpur, and was intended for delivery to one Inderjit Singh, son of Gurbej



Singh, a resident of Tarn Taran. It was further stated that Inderjit Singh would visit the DTDC office at approximately 09:00 a.m. on 27.05.2021 to collect the parcel. Pursuant to this information, when Inderjit Singh arrived at the DTDC Express Office in Amritsar on the aforementioned date and collected the suspicious parcel, he was confronted by the NCB team. Upon being asked to stop, Inderjit Singh allegedly threw the parcel at the NCB team and fled the scene. Despite the NCB team's efforts to apprehend him, he managed to escape. Upon opening the parcel, it was found to contain 14,998 tablets of "Tramadol." During the investigation, it was determined that the parcel had been sent by one Ganga Ram from Jodhpur, Rajasthan, to Inderjit Singh (who remains absconding). Ganga Ram was involved in the investigation and disclosed that he had been using the mobile phone number 9928427904 and was posted at Shiv Government Hospital, Barmer. He further stated that he had booked consignments under the name of Inderjit Singh. Ganga Ram also revealed that he had been in contact with one Hanwant Singh (the petitioner) in 2020, who was allegedly involved in the illegal supply and sale of medicines. Ganga Ram disclosed that Hanwant Singh had lured him into the narcotics trade and had supplied consignments on 5-6 occasions for delivery to addresses provided by him. The consignments were booked under the name 'Mukesh Agency,' which had already been shut down. Ganga Ram also provided the mobile number of Hanwant Singh.

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



whatever recovery was effected was from the main accused Ganga Ram and Harmant Singh @ Hanwant Singh and not from the present petitioner. He further submits that main accused Ganga Ram and Harmant Singh @ Hanwant Singh have already been granted concession of regular bail vide orders dated 25.09.2023 and 18.03.2024 passed by this Court in CRM-M-1823-2022 and CRM-M-41218-2023 therefore, prays for grant of regular bail to the petitioner.

On behalf of the State and counsel for NCB

Short reply by way of affidavit of Rahul Chaturvedi, Jr. Intelligence Officer of the NCB, Chandigarh has been filed by counsel for respondent No.1, the same is taken on record. Copy of the same has been furnished to the counsel opposite.

The learned counsel representing the Narcotics Control Bureau (NCB) has submitted that the present case involves the recovery of a substantial quantity of contraband, specifically 14,998 tablets of 'Tramadol.' Furthermore, it has been contended that the petitioner is a habitual offender as he is involved many other FIRs, although out of those FIRs in 2 FIRs he is on bail, and in one FIR he has been acquitted. However, it has been acknowledged that the petitioner has been incarcerated for approximately 2 years, 7 months and 25 days.

4. Analysis

Be that as it may, from the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 years, 7 months and 25 days, the main accused have already been granted concession of bail by this Court, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved ,



further, 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 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 “**Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna**”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

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

11.03.2025
anuradha

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