



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

CRM-M-58391-2024

Date of Decision:04.03.2025

NARINDER PAL SINGH

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Abhinav Singh, Advocate for
Mr. Anosh Samson, Advocate for the petitioner.
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case FIR No.22 dated 26.02.2023 Under Section 22/61/85 of the Narcotic Drugs & Psychotropic Substances Act, 1985 registered at Police Station Lalru District S.A.S. Nagar, Mohali (Punjab), in the interest of Justice.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

"As per report SHO Lalru, Jaihind today I SI along with ASI Bhushan Kumar 243, S/CT Pardeep Singh 1211, S/CT Shishpal 77 and EHG Surmukh Singh 30059 while driving a private vehicle doing patrolling and reached near Lalru Mandi towards TTI around 5.10 A.M. in the morning near Govt. Senior Secondary School Lalru Sports Stadium while crossing its main gate then one Hindu boy while carrying his Pithu Bag in his right hand was found standing. The police party while reaching near him stop their vehicle then he put



the bag near his foots then SI alongwith the officials accompanied him went near him and search the bag while opening it then a black colour Makhlar in its beneath the drug tablets of Diphenoxylate Hydrochloride and Alrotine Sulphate Tablets IP LOMOTIL were found. On counting the same comes to 192 Strips and every strips bearing bath No. 03122073 Mfg. 10/2022 and Exp.09/2025 had been found written. Every strips is having 60 tablets which comes to 11,520 tablets of LOMOTIL had been found. Me SI has asked the boy of his name and address who had disclosed his name as Narinder Pal Singh S/o Inderjit Singh resident of Village Boor Majra, Police Station Sadar Morinda District Ropar. At this me SI had taken the possession of LOMOTIL tablets from Narinder Pal Singh. No permit for the same had been shown neither any license or permit before me. Me SI had taken the same bag alongwith drugs tablets LOMOTIL with strips numbering 192 which are in total 11,520 alongwith Maflar in possession alongwith the bag which is also carrying clothes. I, put them in cloth made theli and prepared the same in writing with seal in Lakh and sample stamp had been prepared and handed over tothe concerned official of SAS Nagar. The same bag alongwith drugs tablets LOMOTIL which are in total 11,520 as recovery with the police. Fard had been witnessed by witnesses". The on the above version an FIR bearing No.22 dated 26.2.2023 under Section 22/61/85 of Narcotic Drugs and Psychotropic Substances Act. 1985, registered at police station Lalru S.A.S. Nagar, Mohali has been registered."

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and the alleged recovery has



been falsely implicated upon the petitioner and he is a person of clean antecedents not having prior criminal cases. He further submits that he lost his father and his mother is completely blind and her disability certificate is appended with the petition as Annexure P-2 duly issued by the authorities. He further submits that the petitioner has suffered incarceration of 02 years and 02 days.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that recovery is *qua* 192 strips of Lomotil tablets which totals to 11,520 tablets of the contraband.

4. **Analysis**

Be that as it may, considering the custody period i.e. 02 years and 02 days for which the petitioner has suffered incarceration; in addition to the fact that investigation is complete, challan stands presented to Court on 08.08.2023, charges have been framed on 08.09.2023 and 03 out of total 09 prosecution witnesses cited have been examined, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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 “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.

5. **Relief**

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

04.03.2025

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