



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65245-2024
DECIDED ON: 19.02.2025

RIMPA @ MANU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kamaljeet Yadav, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 483 BNSS, 2023 for the grant of Regular Bail to the petitioner in Case FIR No. 166, dated 29.11.2021, Under Sections 22(c) and 29 of N.D.P.S. Act 1985 registered at Police Station Khuian Sarwar District Fazilka Punjab.

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

“Duty Officer, P.S. Khuian Sarwar, "Jai Hind", today myself SI SHO was present at the police station then a written information by ASI Resham Singh No.573/Fazilka was received that, "today myself ASI alongwith HC Gurdeep Singh No.323/Fazilka, S.C. Davinder Singh No.830/Fazilka, SC Nirmal Kumar No.868/Fazilka in the government vehicle Bollero No.PB-22R-0872 which was driven by PHG Suresh Kumar No.6542, have conducted special barricading in regard to suspicion persons at main

Abohar Ganganagar Road infront of Shri Ganpati Waksing Plant in the area of village Daulaputa, where, on suspicion a trala bearing no.PB-05T-9327 seen coming from Ganganagar side and myself ASI has signaled to stop, the driver of the trala stopped the trala jus behind the barricading and tried to run then myself ASI alongwith companion employees abducted both the persons and asked them their names and addresses, then the driver of trala disclosed his name as Rimpa son of Manu son of Suraj resident of Isa Nagri Ward No.9, Makhu District Ferozepur and the person sitting on the conductor seat disclosed his name as Tarsem Lal son of Tara Chand son of Ghasita resident Ward No.7, Makhu District Ferozepur. They have seems to be carry some intoxicant material. Therefore, their search has to be conducted, competent investigating officer may be send. The written information is being sent by hand through S.C. Nirmal Kumar No.868/Fazilka. I am present at the spot alongwith companion employees." On which myself SI alongwith PHG Jai Shankar No.6793 reached at the place of occurrence where ASI Resham Singh alongwith Police party and both the abducted persons alongwith Trala met me. Who has aware me about the circumstances then ASI has been freed from the spot then myself SI/SHO has asked the name and address of the accused then Trala driver disclosed his name as Rimpa son of Manu son of Suraj resident of Isa Nagri Ward No.9, Makhu District Ferozepur and the person sitting on the conductor seat disclosed his name as Tarsem Lal son of Tara Chand son of Ghasita resident Ward No.7, Makhu District Ferozepur. Myself SI while explaining my name and rank and place of posting to both the above persons one by one that I have suspicion that you have carrying some intoxicant material with you and your Trala bearing No.PB-5T-9327, therefore, you and Trala in your possession has to be searched. But as per NDPS Act you have right that you can got search you and your Trala in presence of any gazetted officer or

Magistrate, they can call at the spot. Then accused above said that we want to conduct our search from any gazetted officer then myself SI has prepared the memo of consent separately and accused Rimpa above has appended his left hand thumb impression on the memo and Tarsem Lal also appended his signature in Punjabi and myself Si has telephonically informed G.O. Sh.Sandeep Singh P.P.S. Deputy Superintendent of Police S.D. Abohar City and requested him to come at the spot then after some time Hon'ble D.S.P. Sahib come at the spot, and myself SI has informed D.S.P. about the situation, on which D.S.P. has asked the above accused their name and address, after found the same as correct, DSP Sahib informed them about his name and rank and place of posting and asked that I have suspicion that you have carrying some intoxicant material with you and your Tralla bearing No.PB-05T-9327. Therefore, you and your Trala has to be searched. But under NDPS Act, you have legal right you can search you and your Tralla in the presence of any gazetted officer or any Magistrate. They can be call at the spot, then accused stated that we have full faith upon you, you can search us and our Trala in our possession. Then DSP asked the above accused that before conducting your search you can search me and police party. They said that we have full faith upon you, you can search us and Trala in our possession. On which D.S.P. has prepared separate memo of consent and accused Rimpa has appended his left hand thumb impression and Tarsem Lal has appended his signature in Punjabi on the memo, and the witnesses have also appended their signatures. Then myself SI/SHO by following instruction of DSP before conduct the search of accused and Trala in which Coal is loaded, tried to join public witness in the police party. Then nobody ready to join, then myself of SI/SHO by following instruction of DSP conducted the search of cabin of Trala in possession of above accused. Then after opened the plastic bag white

colour lying behind the driver seat and checked. from which intoxicant tablets recovered, after taken the intoxicant tablets out of the plastic bag and counted then 1750 strips each containing 10/10 tablets total 17500 intoxicant tablets mark Tramadol HCL SR Tablets I.P. 100Mg TM 100 SR, each strip printed the batch no.TPT-01043 MFG 10/2021 Exp 09/2023, 750 strips each containing 10/10 tablets total 7500 intoxicant tablets mark Tramadol HCL SR Tablets I.P. 100mg TM 100SR each strip printed batch No. TPT-01044 MFG 10/2021 EXP 09/2023 and 440 strips each strip containing 15/15 tablets total 6600 intoxicant tablets mark Alprozolam tablets I.P.-05mg Alpracan-0.5 each strip printed batch no.CBT-0481/21 MFG08/2021 EXP 07/2023 has been written. Then myself SI/SHO has put the recovered intoxicant tablets 1750 strips total 17500 intoxicant tablets mark Tramadol HCL SR Tablets I.P. 100mg MD 100SR each strip printed batch no. TPT 01043 MFG 10/2021 EXP 09/2023 into the same plastic bag and put the plastic bag into the cloth bag parcel was prepared, parcel given mark 1, similarly after put the 1 recovered 750 strips total 7500 intoxicant tablets mark Tramadol HCL Sr Tablets I.P. 100mg TMD 100SR each strip printed batch no.TPT-01044 MFG 10/2021 EXP 09/2023 put into the cloth bag separate parcel was prepared, which was given mark-2 and similarly, after put the recovered 440 strips total 6600 intoxicant tablets mark Alprazolam tablets I.P.- 05mg Alpracan-0.5 each strip printed batch no.CBT-0481/21 MFG 08/2021 EXP 07/2023 into the cloth bag and separate parcel was prepared, which given mark-3 and the above three parcels have stamped by myself SI with my stamp ASG and DSP has stamped with his stamp SS and sample of stamp was prepared separately and DSP has verified the case property i.e. three parcels and sample of stamp and myself SI after used my stamp handed over the H.C. Gurdeep Singh and DSP after used his stamp kept his stamp with him. Then myself SI/SHO has

taken the case property i.e. total 31600 intoxicant tablets, sample of stamp and Tralla duly loaded with coal bearing No.PB-05T-9327 into police possession through memo of recovery and the witnesses have appended their signatures and DSP has attested the memo. Then myself SI/SHO in the presence of DSP conducted the personal search of accused Rimpa by following due process then from right pocket of pant of accused Rimpa currency notes of Rs.300 and a mobile make OPPO touch Screen colour light Sardai in which sim No. 7986204077 is activated, recovered, which was taken into police possession through memo of recovery and accused Rimpa has appended his left thumb impression and witnesses have appended their signatures. Then conducted the personal search of above accused Tarsem Lal by following due process then from his front pocket of his Kurta currency notes of Rs.2400 and a mobile phone make Itel colour Black touch screen in which sim no.9878588829 is activated, recovered. Which was taken into police possession through memo of recovery, accused Tarsem Lal has appended his signature in Punjabi on the memo and witnesses have appended their signatures and DSP has attested the memo of personal search. Accused Rimpa and Tarsem Lal above have committed an offence under Section 220,29/61/85 NDPS Act by keeping 31600 intoxicant tablets in their possession, on which after written ruqa against Rimpa and Tarsem Lal the same is being sent to the police station by hand through PHG Jai Shankar No.6793 for registration of case. After register the case, case number be inform. Special reports be issued. PCR Fazilka be inform. Myself SI alongwith companion employees is busy in investigation at the spot.”

3. Learned State counsel has failed to comply with the order dated 13.01.2025 whereby he was directed to place on record the zimni orders to demonstrate as to why the trial is delayed since the date of framing of

charges way back on 01.06.2022 inasmuch as out of total 11 prosecution witnesses only 01 witness has been examined since then.

4. Apparently, on the face of it, there is a long delay and non-production of the information by the State, this Court is convinced to infer that delay before the trial Court might be on the part of prosecution itself. Hence, the petitioner deserves the concession of regular bail as he cannot be detained behind the bars for an indefinite period until and unless he is declared as convict who is merely an accused and facing trial at this juncture.

5. As per the custody certificate, the petitioner has suffered incarceration for a period of 03 years, 02 months and 13 days.

6. As per the fundamental principle of law, 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.

7. In the light of aforesaid discussion, this Court is obvious of the fact that the petitioner cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. “*bail is a rule and jail is an exception*”, as has been held by Division Bench of this Court in *Rajinder Singh versus State of*

Haryana; 2022(2) RCR (Criminal) 85 as well as by the Apex Court in *“Dataram Singh vs. State of Uttar Pradesh & Anr.”, 2018(2) R.C.R. (Criminal) 131* apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same.

8. 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.

9. In the afore-said terms, the present petition is hereby allowed.

10. 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

19.02.2025

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No