

2025:PHHC:073784



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

**CRM-M-30456-2025
DATE OF DECISION: 28.05.2025**

MOHD IMRAN @ SOOBA **...PETITIONER**
VERSUS

STATE OF PUNJAB **... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Abdul Aziz, Advocate , for the petitioner.

Mr. Rajiv Verma, Sr. DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

CRM-22915-2025

Application is allowed, as prayed for.

CRM-M-30456-2025

1. This is a petition seeking regular bail under section 483 BNSS,2023 in FIR No.143, dated 22.12.2023, under Sections 22 of NDPS,1985 registered at Police Station City 2, District Malerkotla.
2. Learned counsel for the petitioner contends that the perusal of the FIR reveals that no contraband was recovered from the petitioner's conscious possession. The subsequent implication of 1200 tablets appears to be planted , indicating false implication. Since the alleged recovery was from the road, not from the petitioner's custody. Moreover, as per the prosecution's narrative the petitioner sold intoxicant tablets barefoot on a busy road in a transparent polythene bag lacks credibility. He further submits that it is implausible that a seasoned peddler would recklessly operate in a residential area, alleging the prosecution's story is fabricated.

3. Per contra learned state counsel has produced the custody certificate of the petitioner which is taken on record and vehemently opposes the grant of regular bail on the ground that 1200 tablets were recovered from the possession of the petitioner and he is involved in another case of similar nature therefore there is every possibility of reoffending if he is enlarged on bail.

Analysis

4. Considering the fact that the FIR reveals a lack of independent witnesses to corroborate the allegations, raising suspicions of false implication. Despite arresting the petitioner in a busy residential area at night (after 9 pm) in December, when visibility would be poor due to fog, the police didn't attempt to join independent witnesses. This omission suggests that no actual recovery was made from the petitioner, and the mandatory provisions of the NDPS Act regarding independent witnesses were disregarded, further supporting the claim of false implication.

5. Moreover the petitioner has suffered sufficient incarceration of 1 year 5 months and 5 days, as of now and the Co-accused vikrant kumar has been granted the concession of regular bail vide order dated 30.04.2025, passed in CRM-M-21815-2025 (Annexure P-1), and charges stands framed on 16.10.2024 and total 15 prosecution witnesses are cited and despite the framing of charges long back no PW has been examined which is sufficient to infer that conclusion of trial would take long time and for the fault of prosecution as they are not making any headway the petitioner cannot be made to suffer indefinitely.

6. The principle "*bail is the rule, jail is the exception*" is a foundational doctrine in Indian criminal jurisprudence. It arises from the presumption of innocence until proven guilty and is closely tied to Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. The Supreme Court has repeatedly emphasized that depriving an individual of liberty before conviction should only occur according to a fair and established legal procedure, and only when absolutely necessary

7. 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.

Relief

8. 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

28.05.2025

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*

7. Thus, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, allowed.