



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-32488-2025
DATE OF DECISION: 19.06.2025

VINOD KUMAR ALIAS PAPPU

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Sandeep Saini, Advocate for the petitioner(s).

Mr. S.S. Pannu, Addl. A.G, Haryana.

SANDEEP MOUDGIL, J (ORAL)1. **Prayer**

This petition has been filed under Section 483 BNSS for grant the concession of regular bail to the petitioner in FIR NO.169, dated 17.04.2023, under Sections 22-C/29-61-85 of The Narcotic Drugs and Psychotropic Substances Act, 1985, at P.S.-Baldev Nagar, District:- Ambala, Haryana.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘The contents of the case are as follows:- To the Station House Officer, Police Station Baldev Nagar Jai Hind today with Fellow employee, HC Mahtab Singh No. 308, EASI Raj Kumar No. 878, EASI Nitesh Kumar No. 88, EHC Randeep Singh No.



774, Constable Rohit Kumar No. 1645, Government vehicle no. HR01GV2741 Driver EASI Rajesh Kumar No. 807 with Laptop, Printer, CIA patrolling for investigating crimes using electronic hook and investigative bag at around 01-10 AM. The staff started from Shahzadpur via Patvi, Panjokhara and was present at fly over bridge Narayangarh turn to Baldev Nagar at around 02-10 AM, where HC Vijay Kumar No. 02 and constable Bhagyashali No. 886 security gaurd Ambala Cantt met with I SI and was talking that at around 2-40 AM the informer special met me SI and it was informed that Vinod Kumar, son of Mohan Lal, resident of Baldev Nagar, Ambala city, is into the business of selling intoxicating capsules and is currently trying to supply huge quantity of intoxicating capsules to a customer on his numberless TVS Jupiter under the Baldev Nagar fly Over Bridge and now waiting for his customer, who is holding a white polythene filled with drug capsules in his right hand, if the said Vinod Kumar is arrested and his polythenè is searched, a lot of drug capsules can be recovered. On taking action on the above information, I SI At about 2-55 AM, sent a separate written information in this regard to the station house Officer Police Station Baldev Nagar after handing over EHC Randeep Singh No. 0774 to Police Station Baldev Nagar and notice U/S 42 NDPS ACT also Prepared separately. The witnesses put their signatures on the notice and the notice is U/S 42 NDPS ACT and was handed over to EASI Nitish Kumar No. 88 and sent to the residence of Shri Ramesh Kumar H.P.S., Deputy Superintendent of Police, Ambala. The passersby were informed about the situation and I SI requested to become witnesses but everyone expressed their legitimate compulsion and went away from the spot. The time which is around, 03.10 AM, I SI reached Fly Over Bridge Baldev Nagar along with my fellow police personnel and a informer and hiding the government vehicle on the side, and informer pointed towards a person sitting on an unnumbered TVS Jupiter under the fly Over Bridge Baldev Nagar. After sending the informer from the spot, I SI With the help of a fellow



employee, controlled the person and asked for his name and address. When asked about his name, Vinod Kumar alias Pappu, son of Mohan Lal, resident of house no. 10/161, Baldev; Nagar, Ambala city, Police Station Baldev Nagar, District Ambala,; who was holding a white colored polythene in his right hand. I SI told Vinod Kumar that we have secret information, the white colored polythene in your right hand is having drug capsules in that polythene. You have the legal right to get yourself searched and this, polythene searched by any gazetted officer or magistrate. Notice U/S.50 NDPS ACT was prepared separately and the notice U/S 50 NDPS ACT was read out to Vinod Kumar and explained every letter, The one who read the notice U/S 50 NDPS ACT, considering the notice as correct, wrote his signature on the notice and the witnesses put their signatures. Accused Vinod Kumar gave his consent in response to the notice that "I want to get myself and the polythene in my hand searched in front of a gazetted officer on which I SI prepared the FIR and the confession statement separately, on which Vinod Kumar alias Pappu and the witnesses signed their respective signatures. I SI has registered his mobile phone number as per the list of gazetted officers in his mobile phone from 9416250063, at around 3-20 AM, Shri Vaibhav SDO "OP' Sub Division East UHBVN Ambala City was called on mobile number 9315118227 and requested to reach the spot after narrating the situation till now, which brought to I SI Accepting the request, agreed to reach the spot which was around 4.10 AM But Mr. Vaibhav SDO 'OP' Sub Division East UHBVN Ambala City reached the spot in a private vehicle and named SI After narrating the situation so far, he presented notice U/S 50 NSDPS ACT and confession statement, witnesses and Vinod Kumar alias Pappu before him. Who saw the notice U/S 50 NDPS ACT and confession. 'statement and after revealing his identity to Vinod Kumar, interrogated the witnesses and Vinod Kumar separately, After searching the SI and Instructed SI to search the fellow employee, following whose instructions, I SI Searched the fellow employee



SI SCANNED COPY OF THE And on the search of the fellow employee, apart from the daily use items, no intoxicating substance was recovered, which was prepared in personal search memo by the search officer and the employee. Vinod Kumar and witnesses have signed their respective signatures on the personal search memo and Mr. Vaibhav SDO OP Sub Division East UHBVN Ambala City ATTESTED the personal search memo After this, Shri Vaibhav SDO 'OP' Sub Division East UHBVN Ambala City appealed to I SI and instructed to search the above mentioned person Vinod Kumar and also to search the polythene held in his hand in front of him, as per orders. When Vinod Kumar was searched, a mobile phone of brand Redmi of blue color was found from his right pocket which had SIM number 7497880812 Airtel and SIM number 8950071721 Airtel and IMEI NO. 861934043441870, 861934043441888 recovered Apart from this, on searching the polythene held in the hands of Vinod Kumar, a large quantity of SPASMO PROXYVON PLUS capsules were found 'inside the polythene. On counting of which a total of 87 strips of capsules were found and each strip contained 08 capsules which resulted in a total of 696 capsules and each strip bore the name "Dicyclomine Hydrochloride, Tramadol Hydrochloride Acetaminophen Capsules" ML 10/UA/2004 manufactured in India By Akums Drugs Pharmaceuticals Ltd 19,20,21 Sector-6A; I.I.E SIDCUL, Ranipur Haridwar 249103 INDIA B.No WAA3006 MFG JAN 23 EXP DEC 24 is written on The weight of one strip with wrapper is 6-7 grams, the weight of 08 capsules without wrapper is 4-84 grams, similarly the total weight of 696 capsules with wrapper is 554-19 grams and the total weight without wrapper is 421-08 grams Due to the case of intoxicating capsules, I SI Called Mr. Hemant Grover Drug Control Officer Ambala's mobile phone 9416250063 at around 4.40 AM, By calling on 9813118227, reached the opportunity and requested to give opinion about Recovered Capsules, who told that you can



WhatsApp me with a photo of strip capsule from Recovered Capsules and I will WhatsApp you my opinion. As per order I SI took a photo of the strip of the capsule and sent a written application on WhatsApp on the mobile number of Mr. Hemant Grover, Drug Control Officer, Ambala. After some time who, sent his written opinion on WhatsApp on my mobile number, according to which the report was made under Recovered Capsule of NDPS ACT. As per the notification of SR. NO. NDPS Act on 238 ZH. A printout of the written opinion which falls under this will be reviewed. By putting the capsules back in the same white polythene, a parcel of goods recovered was prepared and the Parcel of goods recovered was Stamped everything with his RS/3 stamp and used and kept the sample stamp after the stamping. Mr. Vaibhav SDO 'OP' Sub Division East UHBVN Ambala City handed over the Parcel of goods recovered to Mahtab Singh No. 308/Ambala and put his JS/1 stamp on Parcel and also put his JS stamp on the sample seal attested to parcel who kept the post-use stamp and post-use sample stamp with him. On which the engine number and chassis number of TVS Jupiter was checked without number, which was 15 found to have engine number EB4EJ1337214 and chassis number MD626E644J1E97168. The police seized Parcel of recovered Narcotic Capsules with serv stamp RS/3, JS/1 with sample stamp and TVS Jupiter engine number EB4EJ1337214 and chassis number MD626E644J1E97168 as case property vide seizure memo. The seized property was signed by accused Vinod Kumar and the witness and verified by Mr. Vaibhav SDO OP' Sub Division East UHBVN Ambala City. The Recovered mobile phone of brand Redmi was seized from the accused Vinod Kumar by the police during the personal search and the personal search memo was prepared separately and signatures of accused Vinod Kumar and witness were given. The above accused Vinod Kumar has committed the crime of 22 (C) NDPS Act by keeping the above intoxicating capsule in his possession without license and permit. On which a complaint has been



written and a case has been filed, the constable Rohit Kumar is being sent to Baldev Nagar police station number 1645. After the case and number should be informed by the prosecution and copies of the first information report should be sent to the service officer as a special report and for further investigation the second investigation officer should be sent on the spot and inform the incharge CIA Staff Shahzadpur to be done. I SI busy in investigating the matter at this times. Fly Over Bridge Baldev Nagar SD Rajender SI C.I.A. Staff Shahzadpur Date 17.04.2023 Time-05-10 AM AZ Rolic Station Article On receipt of the above mentioned crime by constable Rohit Kumar No. 1645 in the police station, case number 169 dated 17.04.2023 Section 22(C) NDPS ACT Police Station Baldev Nagar and After registering the copy, the original material recovered with police is being sent to the researcher on the spot through the coming CT for further action. Special copies of the FIR are being sent to the service of E-MAIL to Duty Magistrate, SP Ambala and other officers. The station house officer was informed about the situation. The second investigation officer, ASI Jarnail Singh, was informed about the situation and reached the spot. Record will

be entered as per law or the case will be registered by st Rajpal in his own presence.

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 as per the allegations, the petitioner was allegedly found in possession of 696 capsules containing Dicyclomine Hydrochloride, Tramadol Hydrochloride Acetaminophen Capsules. He further submits that the petitioner has nothing to do with the present case and the recovery is falsely planted upon him. He has further argued that



the antecedents of the petitioner are clean. Moreso, the investigation in this case is complete as challan stands presented on 14.07.2023 charges stands framed on 16.10.2023 out of 22 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State

On the other hand, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that 696 capsules containing Dicyclomine Hydrochloride, Tramadol Hydrochloride Acetaminophen Capsules have been recovered from him without having any licence.

4. **Analysis**

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 years, 1 month and 29 days, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, no further recovery is to be effected from him, the petitioner is a man of clean antecedents and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 14.07.2023 charges stands framed on 16.10.2023 out of 22 prosecution witnesses, none has been examined so far which is sufficient to infer 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 Nimesh 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.”*

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

19.06.2025
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No