

2025:PHHC:073955



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

**CRM-M-28774-2025
DATE OF DECISION: 28.05.2025**

GURMEET SINGH @ MITA

...PETITIONER

VERSUS

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 439 Cr.P.C (483 of BNSS, 2023) for grant of regular bail to the petitioner in FIR No. 371 dated 21.11.2023 under Sections 15-C, 18-C, 27-A, 29 of NDPS Act, 1985, and Section 201 of IPC registered at P.S. Sadar Kaithal, District Kaithal.

2. Facts

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

“To the SHO PS Sadar, Kaithal, Jai Hind, it is requested that today on 21.11.2023, i along with SI Ranjit Singh No.105/KTL, ASI Parveen Kumar No.43/KTL, HC Rajeev Kumar No.279/KTL, HC Jasmer Singh No.469/KTL and

EHC Lakhwinder Singh No.420/KTL were present at village Geong-village Kathwarh turn point Hisar to Chandigarh Bypass road, Kaithal in connection w.r.t. stop the crime on Govt. vehicle bearing No.HR-08GV-5926 driven by EHC Balinder Singh No.961/KTL, a special informer came on motorcycle from Titram side and gave me secret information that Palvinder Singh alias Goldi S/o Shamsher Singh R/o village Mandwal, who is a truck driver, and is doing the business of selling the intoxicant substance i.e. poppy husk and opium in his truck, who has made drug addict the young boys of nearby areas, due to which, the young boys are committing theft and other crimes for fulfillment of their lust for drugs. The above mentioned Palvinder Singh alias Goldi is about to come from Narwana side in his container bearing No.RJ-14GN-3419 having poppy husk and opium from some outside place for selling the same in village Mandwal and nearby areas, if a Naka be laid down at this place and the suspected vehicles be checked, the above mentioned Palvinder Singh alias Goldi can be apprehended along with poppy husk and opium. As the Information has been given by a believable person, a notice u/s 42 of NDPS Act was prepared at 2:15 a.m. and the same is sent to you the S.H.O. P.S. Sadar, Kaithal through EHC Balinder Singh No.961/KTL. The secret Informer went from the spot, after giving the information. Thereafter, I disclosed w.r.t. the secret Information to the other police officials and prepared a raiding party and started baricating at turn point of village Geong- Kathwarh on Hisar-Chandigarh Bypass road, Kaithal and I sent SI. Ranjit Singh to call Karamvir Singh, Sarpanch of village Geong at the spot. After checking 4-5 trucks, who were coming from Titram side, as per the secret Information, at about 2:45 a.m., we saw one container coming towards us from Narwana side, to whom I along with other police officials while barigating signaled him with the light of torch to stop the vehicle, the driver of the vehicle stopped all of a sudden and alighted from the vehicle and

tried to ran away, ! along with other police officials apprehended him and on asking, he told his name as Palvinder Singh allas Goldi S/o Shamsher Singh R/o village Mandwal, P.S. Rajound, District Kaithal. On checking the vehicle is found to be bearing No.RJ-14GN-3419, make Ashoka Lyland as per the secret information. Then I told Palvinder Singh alias Goldi that I have suspicion that you are having some intoxicant substance Le. poppy husk and oplum with you and in your vehicle and you have a legal right to get conduct the search of youself and your vehicle from any Magistrate or gazetted officer. I prepared notice u/s 50 of NDPS Act separately, upon which, suspected Palvinder Singh alias Goldi and witnesses signed on the same. After thinking for some time, he expressed his consent to get conducted the search of himself and his vehicle from some Magistrate. I prepared consent memo u/s 50 of NDPS Act, upon which Palvinder Singh alias Goldi and witnesses had signed. On 3.19 a.m., I called from my mobile No.70155-45006 to Sh.Ashish Kumar, Naib Tehsildar, Kaithal on his mobile No.7988917708 and after explaining the facts, requested him to come on the spot. At about 3.25 a.m., EHC Balinder Singh came back at the spot, after giving the notice u/s 42 of NDPS Act to SHO, P.S. Sadar, Kaithal. At about 3.35 a.m., Sh.Ashish Kumar, Naib Tehsildar, Kaithal came at the spot in his private vehicle bearing No.HR-08GV-2222, while driving the same on his own. During this, A.S.I. Ranjeet Singh came back and told that Sarpanch Karamvir Singh S/o Balwan r/o village Geong has not met at his house as he has gone out of station Kaithal enquired from the suspected Palvinder Singh alias Goldi and witnesses along with me.As per the directions of Sh.Ashish Kumar, Naib Tehsildar, Kaithal, I got conducted my search from ASI Parveen Kumar and no suspected thing was recovered from me apart from the mandatory items. I prepared my personal search memo, upon which, the witnesses had appended their signatures. Sh.Ashish Kumar, Naib Tehsildar, Kalthal

attested the memo and make 'SEEN' the noi de u/s 50 of NDPS Act. in the meantime, Satish S/o Phool Chand R/o Geong, driver of Pick-up came from village Geong side and Birbal S/o Ram Niwas along with Sahil S/o Birbal r/o village Dhons came on motorcycle bearing No.MR-0981-1602 from village Dhons side, to whom I disclosed the facts and asked them to become the witnesses, but they told their genuine difficulties and went away from the spot. Then as per the directions of Sh. Ashish Kumar, Naib Tehsildar, Kaithal, during the search of truck container bearing No.RJ-14GN-3419, Lyland, red colour, used by above mentioned Palvinder Singh alias Goldi, I opened four bulb type bolts on the roof in the cabin and I found a black coloured substance in a black coloured polythene bag and on checking, I found the opium le. intoxicant substance restricted by the Government. On weighing with the electronic weighing machine, the same is found 500 grams along with the polythene bag. I put the same in a plastic box and prepared a parcel of opium and served the same with my seal 'PK/2' and prepared sample seal separately as 'PK/1'. After use, I handed over my seal to HC Rajeev Kumar. Thereafter, driver Palvinder took out his driving licence from dashboard of the truck, which is in the name of Palvinder and the same is issued by RTA, Kalthal, valid upto 14.07.2029, photocopy of RC No.RJ-14GN-3419, truck make Ashoka Lyland, upon which, the chassis No.MB1A5EHD6MADL6189 and engine No.MHPJ110497 has been written. This RC is in the name of above mentioned Palvinder Singh and the same has been issued by RC DTO, Jagatpura authority and registration date is 021. Form 47, Form RS 5.16, 3 pages of above mentioned vehicle fitness certificate 1 page, copy of insurance by United India 3 pages, paper of billity le. Globe Eco Logistic Pvt. Ltd., State Maharashtra, GST No.27AAACG3938JIZG bearing No.167316, dated 17.11.2023, upon which it has been written (From Rajasthan to Chandigarh, Consigner, Name

MSK Flex India Pvt. Ltd., F19TP 2427 MJDC, Ranjangaon, vill. Koregaon The Shirur Pune, MH, consignee name M/s Delta Enterprises, Plot No.72, Makhan Majra, Chandigarh, packages 243 Micro Cellular, 15 rubber etc, upon which, the vehicle No.RJ-14GN-3419, Invoice No.232401881, dated 17.11.2023 and Mob. No.98150-91513, 97802-48378 etc has been written two pages and 14 paegs of taxes invoice K Flex, 1 page of e-Way bill. The number of above mentioned vehicle is mentioned on some of the documents. Thereafter, I checked body of the truck with the help of other police officials and found packing of cardboard and packing of plastic polythene as per the billity foam, rubber etc. On the packing of cardboard, K Flex EC has been written. We also found black coloured heavy bags with the packing of foam and on checking, after opening the same, I found Doda Post in 24 bags and poppy husk in 34 bags. On weighing with the electronic weighing machine, every bag was found 20-20 kg, out of above mentioned 24 bags of Doda Post and therefore, total 480 Kg of Doda post was recovered. Then, on weighing with the electronic weighing machine, every bag was found 30-30 kg, out of above mentioned 34 bags of Poppy husk and therefore, total 1020 Kg of poppy husk was recovered. Then we marked A1 to A24 the plastic bags of Doda Post and B1 to 834 to bags of the poppy husk. Then I prepared parcels of bags of Doda Post and Poppy husk recovered from the possession of above mentioned Palvinder Singh alias Goldi and served with my seal 'PK/2', after taking the same from HC Rajeev Kumar and prepared sample seal separately of all the parcels and then served every sample seal with my seal 'PK/1'. After use, I handed over the seal to HC Rajeev Kumar. Thereafter, Sh.Ashish Kumar, Naib Tehsildar, Kaithal served with his seal 168/1/1' on one parcel of opium, 24 parcels of Doda Post, 34 parcels of poppy husk and sample seal of opium, Doda Post and 59 sample seal of poppy husk. After use, Sh.Ashish Kumar, Naib Tehsildar, Kaithal has kept his seal with him and he attested all the parcels and sample

seals. Thereafter, parcel of opium, Doda Post, Chura Post, sample seals and above mentioned truck along with 24 pages as evidence were taken into police custody through recovery memo. I prepared recovery memo. The accused and witnesses signed on the same and Sh.Ashish Kumar, Naib Tehsildar, Kaithal attested the same. After giving me proper directions, Sh.Ashish Kumar, Naib Tehsildar, Kaithal went away from the spot at 8:15 a.m. in his vehicle. As accused Palvinder Singh alias Goldi has committed offences u/s 18(C) of NDPS Act by keeping intoxicant substance of 500 grams of opium and u/s 15(C) of NDPS Act by keeping intoxicant substance of 480 kg of Doda Post and 1020 KG poppy husk, total 1500 kg (15 quintals), therefore, a ruqa is written and sent to the police station sadar, Kaithal through EHC Balinder Singh No.961/KTL. After registration of a case, number of the same may kindly be informed to me. Special reports may kindly be sent to the higher police officials through proper channel. Another investigation officer may kindly be sent at the spot for further investigation. I along with other police officials and accused Palvinder Singh alias Goldi along with case property is present at the spot. Sd/- ASI Pardee Kumar, No.56/KTL, Special Detective Unit, Kaithal, dated 21.11.2023 at 8.25 a.m.”

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 and nothing has been recovered from the conscious possession of the petitioner, however, as per the allegation, 1020 kg. of poppy husk was recovered from the co-accused namely Palwinder Singh @ Goldy, who has already been granted the concession of regular bail by this Court vide order dated 15.05.2025 passed in CRM-M-24076-2025.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner has suffered incarceration of 01 year 2 months and 18 days, as of now,

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that there is direct allegation against the petitioner that he took amounts in lakhs from the co-accused Manish for the purchase of narcotic substance.

4. Analysis

Be that as it may, considering the custody period suffered by the petitioner i.e. 01 year, 2 months and 18 days, as well as the fact the co-accused Palwinder Singh @ Goldy, from whom the alleged contraband stands recovered has already been enlarged on regular bail by this Court vide order dated 15.05.2025 (Annexure P-6), coupled with the facts that, nothing is to be recovered from him and in the present case charges have been framed on 05.11.2024 and till today out of 29 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial would 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 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

28.05.2025

sham

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