



232 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-20985-2025

Date of Decision: 28.04.2025

MANGA SINGH

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Anand, 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 BNSS, 2023 for grant of regular bail to the petitioner in FIR No.170 dated 12.08.2023 under Sections 15 (c) & 29 (added later) of NDPS Act, 1985 registered at Police Station, Sultanpur Lodhi, District-Kapurthala, (Annexure P1).

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

*“Today, I., SI along with ASI Sarwan Singh 1177/Kapurthala, ASI Jasbir Singh 887/Kapurthala, ASI Gurdev Singh 300/Kapurthala, ASI Kuldeep Singh 160/Kapurthala, HC Bachitar Singh 46/Kapurthala, CT Navjit Singh 1156/Kapurthala, were patrolling the local area on a government vehicle bearing No. PB 09-X-8441, driven by ASI Manjeet Singh 638/Kapurthala, bearing laptop and a printer, in search of nefarious persons and suspicious vehicles. In pursuance thereto, we were present at bus stand-Dand Vindi. There the informer gave me a secret information that Manga Singh, Nishan Singh and Joga Singh son of Gurdeep Singh resident of Village-Latianwala, P.S-Sultanpur Lodhi, District-*



*Kapurthala, are engaged in a large scale business of selling poppy seeds. Even today, the aforesaid persons are coming from their house in their silver colored Innova car bearing No. PB08-AW-7527 to sell poppy seeds to their customers. If a raid is conducted at their house right away then poppy seeds can be recovered. The information received seems to be trustworthy, therefore, I, SI along with other police officials on the government vehicle headed towards the location as given to me by the informer. In the meantime, I, SI contacted Sh. Satnam Singh, PPS, DSP (City), Kapurthala from my phone (98769-1373183) to his phone (99153-75500) and made him aware of the situation and requested him to come to the spot. I, SI along with other police officials reached the house of Manga Singh and others situated at Village-Latianwala. Upon seeing the police party, enter through the gate of the house, three hair shorn boys who were loading heavy looking plastic sacks in their silver coloured Innova car, tried to whisk away from the spot. The three boys were apprehended by I, SI with the help of the others members of the police party. Upon asking their name and address, they revealed it to be Manga Singh son of Gurdeep Singh. Nishan Singh son of Gurdeep Singh and Joga Singh son of Gurdeep Singh all residents of Village-Latianwala, PS-Sultanpur Lodhi. In the intervening period, Sh. Satnam Singh, PPS, DSP (City). Kapurthala came to the spot along with other police officials on a government vehicle. I, SI, informed him about the situation. Thereafter, the DSP inquired about the name and address of the apprehended persons, they revealed their names to be Manga Singh son of Gurdeep Singh, Nishan Singh son of Gurdeep Singh and Joga Singh son of Gurdeep Singh all residents of Village-Latianwala, P.S-Sultanpur Lodhi. The DSP informed the apprehended persons about his name, rank and place of posting and stated that he is a Gazetted Officer working for the Government of Punjab as DSP, Head Quarter, Kapurthala. The DSP further stated that he is wearing his uniform and his name place is clearly visible. Thereafter, the DSP informed the apprehended persons that he has a suspicion that there is some intoxicant substance in their silver coloured Innova car bearing No. PB08-AW-7527 and that their on would the searched Further the DSP Hatha the appendient persons have*



*a legal right to get the search of these vehicle affected Dem xoom other Gasetted Officer of in presence of the Magistrats. The persons apprehended individually stated that there are poppy seeds in the Innova car and that they do not wish to get their car searched from any other Gazetted Officer or the Magistrate and that they have faith on the DSP Separate consent memos were prepared in presence of witnesses. Manga Singh put his left thumb impression on the consent memo, Nishan Singh put his signatures in Punjabi language on the consent memo and Joga Singh put his signatures in Punjabi language on the consent memo. Thereafter, on the direction of the DSP an attempt was made by 1, SI to join a public witness but no one came forward. Then I, SI on instruction from the DSP proceeded to search the Innova Car and five heavy looking plastic sacks kept on top of the folded back seats of the car were recovered from the boot space. All the bags were sealed with ropes and on top of the bags an electronic weighing scale was also found. The heavy looking plastic sacks were brought down from the vehicle and on opening them grinded poppy seeds and flowers were recovered. When the recovered grinded poppy seeds and flowers was weighed on the weighing scale (also recovered from the spot), the weight came out to be 20 kgs each including the weight of the plastic sacks. The plastic sacks were closed with the rope and the same was sealed with seal bearing impression 'LS' and sample seal was prepared. After use the seal was handed over to ASI Sarwan Singh 1177/Kapurthala. Then the DSP put his seal bearing impression sac on the recovered plastic sacks The DSP put his sample seat on the same piece of paper where 1. St had put my own sample seal, thereafter, the DSP retained his seal for later use. 1, S1 proceeded to mark to plastic sacks with serial Nos. A, B, C, D and E. Thereafter, the recovered five sacks bearing serial Nos. A, B, C, D and E sealed with seals bearing impression 'LS' and 'SS' weighing 20 kgs each and about 100 kgs in total along with the recovered electronic weighing scale and the Innova car were taken into police custody vide separate recovery memos. Manga Singh, Nishan Singh and Joga Singh sons of Gurdeep Singh all residents of Village-Latianwala, P.S-Sultanpur Lodhi having been found in possession of 100 kgs of poppy seeds have committed an offence under Section 15 (c), NDPS Act. Ruqa was*



*scribed and sent to the P.S-Sultanpur Lodhi through CT Navjit Singh 1156/Kapurthala for registration of the FIR. The number of the FIR be conveyed after its registration. Report has been prepared for the perusal of senior officers in compliance of Section 42, NDPS Act and the same is being sent through HS Bachitar Singh 46/Kapurthala. Special reports be prepared for the perusal of the District Magistrate and other senior officers. Intimation be sent to the Control Room. I, SI along with other police officials are busy at the spot for further investigation. Latitude 31.217205 Longitude 75.300726.*

3. **Contentions**

**On behalf of the petitioner**

Learned counsel for the petitioner contends that the petitioner is falsely implicated in the present case and is in custody for last more than 01 year and 7 months and is not involved in any other case under NDPS Act. He further submits that trial will take time to conclude as till date, prosecution is able to examine only 2 witnesses out of total 12 witnesses; that similarly situated co-accused/Joga Singh and Nishan Singh have already been given concession of regular bail by Coordinate Bench of this Court vide order Annexures P-2 and P-4 on the ground of long incarceration. It is further submitted that in the given circumstances, no useful purpose would be served by prolonging the judicial custody of the petitioner.

**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 of 100 kgs of poppy husk has been effected in the present case, and, therefore, rigors of Section 37 of NDPS Act would be attracted. However, the State



counsel, on instructions, has not disputed the fact that till date, only 2 prosecution witnesses are examined out of total 12 witnesses on behalf of the prosecution and that the petitioner is incarcerated for the last more than 1 year and 8 months and 10 days and that similarly situated co-accused, Joga Singh and Nishan Singh who was also arrested at the spot is already enlarged on bail by Coordinate Bench of this Court. State counsel has also not disputed the fact that the petitioner is having no criminal antecedents under NDPS Act.

4. **Analysis**

Be that as it may, considering the custody period i.e. 01 year 08 months and 10 days for which the petitioner has suffered sufficient incarceration; in addition to the fact that investigation is complete, challan stands presented to Court on 19.01.2024, charges have been framed on 20.05.2024 and 2 prosecution witnesses are examined out of total 12 witnesses cited, 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. **DECISION:**

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**

**28.04.2025**

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*Whether speaking/reasoned* : *Yes*

*Whether reportable* : *No*