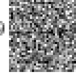

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27486-2025 (O&M)
DATE OF DECISION :16.06.2025

LAKHA SINGH
.......PETITIONER(s)

VERSUS

STATE OF HARYANA
.....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S.Sekhon, Advocate for the petitioner(s).

Mr. Chetan Sharma, DAG, Haryana.

***

SANDEEP MOUDGIL, J (ORAL)

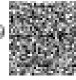
1. **Prayer**

This petition has been filed under Section 439 Cr.P.C (483 of BNSS) seeking the concession of regular bail for the petitioner in FIR No.79 dated 17.03.2024 under Sections 15 of The Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 483 of IPC, registered at Police Station Sadar Sonipat, District Sonipat.

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

> '*To: SHO, Police Station Sadar Sonipat, ASI, myself HC Pradeep 1462, and Constable Rajesh 220 were on night patrol in a government vehicle, Bolero No. HR-10GV-1452, with Driver*

Deepak. We were near village Badwasni on Juraim Gohana Sonipat Road when we observed a car, number CH01CM-0586, a brand ETIOS, standing in a suspicious condition, possibly involved in an accident. ASI approached the car and, upon inspection, confirmed the presence of intoxicants inside. We informed the passersby about the investigation. At the same time, Jitendra, son of Shri Mehar Singh, a resident of Ratnagarh district, Sonipat, arrived at the spot. Upon searching the car, ASI discovered it was filled with doda poppy seeds. These were then placed in a plastic container and weighed using an electronic scale. The weights were as follows: Katta No. 1: 6 kg 20 grams, Katta No. 2. 13 kg 414 grams, Katta No. 3: 12 kg 455 grams, Katta No. 4. 7 kg 220 grams, Katta No. 5: 7 kg 155 grams, Katta No. 6: 7 kg 524 grams, Katta No. 7: 6 kg 644 grams, Katta No. 8: 8 kg 214 grams, Katta No. 9: 10 kg 660 grams, Katta No. 10: 11 kg 968 grams, Katta No. 11: 12 kg 460 grams, Katta No. 12: 11 kg 475 grams, Katta No. 13: 14 kg 624 grams, Katta No. 14: 11 kg 660 grams, Katta No. 15: 12 kg 760 grams, Katta No. 16: 13 kg 625 grams, Katta No. 17: 12 kg 660 grams, Katta No. 18: 12 kg 100 grams, The total weight of the doda poppy seeds was 192 kg 638 grams. After this, 18 plastic packets were prepared separately, and sample seals were made by marking all packets with the stamp SK/1. After ASI gave approval, the evidence was handed over to HC Pradeep 1462. The doda poppy seeds and car number CH01CM-0586, ETIOS, were seized as evidence, and the Fard recovery was prepared and signed by the witness. The unknown accused has committed an offense under Section 15 of the NDPS Act by keeping illegal doda poppy seeds in his car number CH01CM-0586. A SINGH RAWAT scomplaint has been lodged against him, and a case has been filed against Constable Rajesh 220 of Arsal Police Station. The case number should be communicated through the appropriate form, and a special report should be prepared. As ASI, I am requesting that another investigator be sent to the scene for the ongoing investigation. I am waiting for the ASI to continue further investigation. Location:



Gohana Sonipat Road, near Village Badwasni, Hulla Heady Mode, Reporting Officer: SD Sunil, Police Station Sadar Sonipat, Date: 17-03-2024, Time: 09:00 AM, Upon receiving the report at the police station, the case was registered under Section 15 NDPS Act, M.N. 79 days, dated 17/03/2024. The special report is being sent to the concerned officer via email. The original complaint, along with a duplicate copy, was handed over to the police constable for further action and sent to the concerned officer. Second investigator SI Rajesh 884/SPT was informed about reaching the scene. The manager of the police station was updated about the situation. The case was registered in the presence of ASI Salender 150/SPT.'

3. **Contentions**

On behalf of the petitioner

Learned Counsel for the petitioner has submitted that the petitioner is an innocent person who has been falsely implicated in the present case. It is contended that the petitioner has been in judicial custody since 16.01.2025 and no recovery has been effected from the petitioner, and even otherwise, any alleged recovery is false and planted. It is further submitted that the investigation in the matter stands concluded and the challan has already been presented before the competent court. The petitioner has no connection whatsoever with the alleged vehicle involved in the case. He has further argued that the antecedents of the petitioner are clean. It is also argued that the trial is likely to take considerable time, and continued incarceration of the applicant would serve no fruitful purpose. In view of the above submissions, learned counsel has prayed that the petitioner Lakha Singh, be granted the benefit of bail.

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.

He candidly informs the Court that the role of the petitioner was that he was driving the offending car on the payment of Rs. 30,000/- from Champaran district in Bihar and abandoned the car after met with an accident in Sonipat.

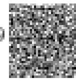
4. **Analysis**

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 4 months and 29 days, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender and admittedly the petitioner is neither registered owner of the car nor was involved in the peddling of the drugs/contraband. As far as argument of the learned State Counsel as regards the petitioner became owner of the car which was used in transporting the contraband in question is unfounded, which is purely based on alleged agreement to sell executed by one Palwinder Singh who is registered owner of the vehicle and is resident of State of UP. By no stretch of imagination, execution of such agreement which is neither a registered document nor attested by any authority would not transfer title of the car to Lakha Singh, 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 15.04.2025 charges are yet to be framed on and total 18 prosecution witnesses have been cited which is sufficient for this Court 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:-

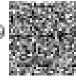
> *"2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences 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 Nikesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision,



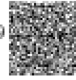
reference was made to Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 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

16.06.2025
anuradha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*