



218

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63246-2024
DECIDED ON: 02.04.2025

MANPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Ranjana Dadwal, Advocate
for the petitioner.
Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of B.N.S.S 2023 praying for grant of Regular Bail to the petitioner in FIR No. 0117 dated 11.07.2023 under section 21, 25 & 29 of NDPS Act 1985 registered at Police Station City Beas, Amritsar (Rural).

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

“Today myself Si along with ASI Surinderpal 1232, CT. Manjinder Singh 1211, CT. Amritpal Singh 1975, PHG Baljinder Singh 20044, PHG Gurmej Singh 20097 was present in private vehicle along with laptop and printer at link road near Gol Chowk near Railway Station Beas regarding patrolling and search of bad elements and vehicles were being checked. In the meantime, one white coloured 120 car No.PB-17C-7500 came from village Budha Theh side towards GT road Beas, which was indicated by me/SI to stop, who on seeing the



police party, tried to turn back the car, but was apprehended by me with the help of police party. On inquiry, the car driver disclosed his name as Manpreet Singh son of Sarabjit Singh, resident of village Sidhwan Chak, PS Ghuman and the person sitting on the co-driver seat disclosed his name as Baljit Singh son of Surinder Singh, resident of Padde, PS Beas, District Amritsar. Myself SI told them that I am SI Savinder Singh 535 and posted at Beas and I suspect that you and your car have some intoxicating substance, so you and your car is required to be searched, but you have a legal right that you can get yourself and your car searched through some gazetted officer or through a gazetted officer of some other department or through Magistrate, who can be arranged. Upon this, separate notices u/s 50 of NDPS Act were prepared which were witnessed by ASI Surinderpal and CT. Manjinder Singh and signed by suspect Manpreet Singh and Baljit Singh. After thinking for a while, suspect Manpreet Singh and Baljit Singh replied that we want to get ourselves searched from you, upon which separate consent memos were prepared and the same were witnessed by ASI Surinderpal and CT. Manjinder Singh. Before conducting their search, it was again informed that you have a legal right that you can search me and my accompanying police party for which respective notices u/s 42 of NDPS Act were given, upon which after thinking for a while, suspect Manpreet Singh and Baljit Singh replied that we do not want to search you and the police party. At this, notices u/s 42 of NDPS Act were witnessed by ASI Surinderpal and CT. Manjinder Singh and signed by suspect Manpreet Singh and Baljit Singh. Before conducting the search of suspect Manpreet Singh and Baljit Singh, an effort was made to join some public witness in the police party but no passerby agreed, upon which myself SI asked the car driver Manpreet Singh to come out of the car and he was checked. From the right pocket of the pant of Manpreet Singh, a polythene bag was found which was



opened and checked and it was found to contain heroin. After weighing the heroin on a computerized weighing scale, it was found to be 5 grams. At this, the heroin was put in the same polythene bag and then in a plastic box and separate parcel was prepared which was sealed by myself SI with my seal SS. Then personal search of Baljit Singh was conducted and from the right pocket of his pant, heroin wrapped in a polythene bag was recovered, which was weighed on a computer scale and found to be 5 grams. The recovered heroin was put in the same polythene bag and then in a plastic box and parcel was prepared which was sealed by me with my seal SS. Sample seal was prepared separately and both the parcels of heroin were taken into police possession vide separate memo which were attested by the witnesses. Seal after use was handed over to ASI Surinderpal and 120 car No.PB-17C-7500 was taken into police possession vide separate memo. Accused Manpreet Singh and Baljit Singh by keeping 5 grams heroin each in their possession while travelling in i20 car, have committed offence u/s 21, 25 of NDPS Act. Upon this, ruqa is being sent by hand through PHG Gurmej Singh to PS Beas for registration of case. After registration of case, FIR number be intimated and special reports be sent to the Magistrate and officers concerned. Control room be informed on wireless. Myself shalong Shalong with police party is busy in investigation on the spot. Today in the area of link road, near Gol Chowk, Railway Station, Beas at 4:50 PM. Sd/ Savinder Singh SI, PS Beas, dated 13.04.2023.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the alleged recovery from the possession of the petitioner is 5 grams of Heroin which is a small quantity, however subsequently, 260 grams of Heroin was falsely planted upon the petitioner, which is marginally over and above the



commercial quantity as it was weighed with the polythene bag. Moreover, the investigation in this case is complete as challan stands presented on 08.11.2023 charges stands framed on 21.02.2024 out of 12 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 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 the petitioner is a habitual offender as he is involved in other FIRs also and recovery of Heroin has been effected from him.

4. **Analysis**

Be that as it may, considering the custody period i.e. 1 year, 08 months and 17 days for which the petitioner has suffered incarceration; the contraband recovered is marginally over and above the commercial quantity in addition to the fact that the investigation is complete, challan stands presented on 08.11.2023 charges stands framed on 21.02.2024 out of 12 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite period.

Taking into consideration the following orders passed by the Coordinate Benches of this Court wherein the recovery from the accused was marginally over and above the commercial quantity for the respective contraband in each case, the Courts have taken a lenient view while granting bail to the accused therein i.e. Sukhchain Singh @ Manga Versus State of



Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)' decided on 11.11.2022, 'Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)' decided on 19.01.2022, 'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Gopi Versus State of Punjab, CRM-M-41039-2019, Singh decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023.

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.

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 concession of bail.



5. **RELIEF:**

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

02.04.2025
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No