



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

247

CRM-M-62092-2024

Date of decision: January 27th, 2025

Joginder Singh @ Jugendra Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of bail in FIR No.44 dated 20.05.2024 under Section 18 of the NDPS Act registered at Police Station IT City, District S.A.S. Nagar.

2. On the last date of hearing, in view of the submissions made by the learned counsel that the trial was getting delayed on account of the repeated failure of the jail authorities to produce the petitioner-accused, this Court had directed the Additional Director General of Police (Prisons), Punjab, to submit an affidavit addressing the issue of the jail authorities in failing to produce the accused before the trial Court on the scheduled dates of hearing.

3. In compliance of order dated 08.01.2025, reply by way of affidavit of Additional Director General of Police, Prisons, Punjab, Chandigarh, has been filed in Court, which is taken on record subject to just exceptions.

4. The petitioner has been in custody since 20.05.2024 on allegations of possessing 2.6 kilograms of opium following a recovery allegedly made on a secret information. Learned counsel for the petitioner has asserted that the petitioner has no previous criminal antecedents, thereby lending credence to his false implication in the present case.

5. Learned State counsel while opposing the prayer made by learned counsel for the petitioner has not disputed the custody period of the petitioner nor has it been disputed that there has been delay in framing charges. It has been categorically admitted both by the learned State counsel as well as in the affidavit, which has been filed today that following the presentation of challan, on four continuous dates, the jail authorities had not produced the petitioner before the trial Court, leading to adjournments.

6. A perusal of the affidavit, which has been filed before this Court, clearly highlights procedural lapses and negligence by the jail officials. As per the affidavit filed, disciplinary proceedings have been initiated against the negligent officers.

7. The recovery allegedly made from the petitioner is only marginally above the threshold for classification as a commercial quantity under the NDPS Act. While the learned counsel has argued that there had been non-compliance with the provision of Section 42 of the NDPS Act, this aspect is left to be adjudicated during the course of trial by the Court concerned.

8. The prolonged incarceration of the petitioner, without the trial proceeding, is not attributable to him but to the gross negligence and procedural lapses on the part of the jail authorities. The fundamental

right to a speedy trial under Article 21 of the Constitution of India cannot be rendered illusory due to such administrative failures. This Court cannot condone a situation where an accused is forced to languish in jail because of reasons beyond his control.

9. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

11. Before parting, this Court would want to comment upon the conduct of the jail authorities in the present matter, which is appalling and reflects an utter disregard for their statutory duties. This is not the first time that it has come to the notice of this Court that accused have not been produced by the jail officials before the trial Court on scheduled dates. It has been coming to the notice of this Court time and again that on the scheduled dates, the accused are not produced before the trial Court resulting in the cases being adjourned as a consequence of which conclusion of the trials are being delayed. These repeated and possibly deliberate failures to produce the accused before the trial Court on scheduled dates demonstrate a flagrant violation of the judicial orders; such gross negligence not only stalls the course of justice but also tramples upon the fundamental rights of the accused, forcing the Courts to then intervene. Moreover, this Court cannot ignore the possibility of an unholy nexus between certain unscrupulous jail officials and accused persons to delay trials intentionally, thereby creating grounds for bail. Such a possibility requires strict vigilance and

corrective action by the concerned authorities. The authorities would be well advised to take steps to prevent such lapses in the future and to root out such malpractices.

12. Copy of this order be sent to the Home Secretary, Punjab.

January 27th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No