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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-65282-2024  
DECIDED ON: 28.05.2025

BALDEV SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kanish Ganeriwala, Advocate  
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

**SANDEEP MOUDGIL, J (ORAL)**

**1. Prayer**

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 grant of regular bail in FIR No. 84 dated 08.02.2024 registered under Section 15 of NDPS Act, 1985 (Section 29 of NDPS added later on) registered at Police Station Rania, District Sirsa.

**2. Facts**

Facts as narrated in the FIR reads as under:-

*“EASI Paramjit Singh No. 640 boarded on Govt Car bearing no. HR 24 GV 1111 being driven by EHC Bhajan Lal no. 762 along with personal laptop and Printer for patrolling and in search of crime were going from Jeevannagar to Dudianwali towards village Sadewala then as we reached near Hanuman mandir we saw a car*

coming towards us. That on seeing the police the driver of the car got scared and started turning the car back that the car stopped. That on being suspicious I ASI along with with the help of companion officers got control over the driver of the car and asked him his name and residence, which he disclosed as Baldev Singh S/o Surja Ram R/o Sadewala. That I ASI checked the car which was found to be make Bolero coloured white and bearing No. HR 36M-0914 that on the back seat of the car were lying two black coloured plastic bags. I asked above said Baldev Singh the reason for him turning back his car and being scared, he could not give Satisfactory Answer. That I ASI had suspicion that above said person has some narcotic substance in. his bolero car coloured white and hence gave a separate notice U/s 50 of the NDPS ACT in writing That I ASI Jasbir Singh No. 763/Jind ANC Staff Sirsa have suspicion that you Baldev Singh have some narcotic substance on yourself, hence a search needs to be conducted of yourself, your car and the Black coloured Plastic bag. That you have a legal right to call a Gazetted Officer or a Magistrate in front of whom your personal search along with the search of your car and black coloured plastic bag can be conducted or you can be produced before a Gazetted Officer or nearest Magistrate. Please state your answer. That after reading and going through the Notice U/s 50 of the NDPS Act Baldev Singh has stated that I Baldev Singh S/o Surja Ram R/o Sadewala have read and understood the Notice Issued by you ASI Jasbir Singh ANC, Sirsa and that I want my search the search of my Car and the two plastic Bags kept in the car to be conducted in front of a gazetted officer. That a Gazetted Officer be called at the spot. That the Notice as well as the reply to the notice were signed by Witnesses That at time about 8.35 PM I called from my mobile no. 94161-45609 to Shri Suresh Chander Principal GSSS, Balasar on his mobile no. 94162-78081 and briefed him with the situation and asked him to come to the present location. That Shri Suresh Chander Principal GSSS, Balasar after some time reached at the spot on his personal vehicle. That passerby were tried to be added as a witness but all by stating their legitimate compulsion

*and without stating their name and address left the spot. That Shri Suresh Chander Principal GSSS, Balasar introduced himself to the Accused Baldev Singh and then questioned him. That he ordered myself ASI to conduct the search of the arrested person Baldev Singh and his Bolero Car. That I ASI on order of Shri Suresh Chander Principal GSSS, Balasar conducted the search of arrested person Baldev Singh but no narcotic substance was found on him. Then after that we proceeded to conduct the search of the Bolero car, that on the back seat of the car were found lying two black coloured plastic bags which were then place on the ground and were opened and opening the same poppy husk was found inside the bags. That on weighing the first plastic bag with electronic weighing scale then the weight of the plastic bag along with the poppy husk came out to be 25 kg 500 grams and that in the same manner the second plastic bag along with poppy husk was also weighed, the weight came about to be 25 kg 500 grams. That separate parcels were created of the seized plastic bag along with the poppy husk by myself ASI and the same were stamped with my stamp JS/3. That separate sample seal was created and the gazetted officer stamped both the black plastic bags containing poppy husk with his stamp KK/1 and sample seals along with parcels was taken into possession. That both the black colored parcels containing poppy husk along with bolero coloured white bearing no. HR36M-0194 were taken into possession by myself ASI through seizure memo and the said seizure memo was signed by accused Baldev Singh and witnesses that I ASI after using my stamp gave the same to EASI Harjeet Singh no. 870/ Sirsa and that Suresh Chander Principal GSSS, Balasa kept his Stamp with himself. that when I ASI questioned the accused, Baldev Singh above mentioned that the poppy husk recovered from me has been provided to me by Banshi R/o Savah Rajasthan at my home. That accused Baldev Singh by keeping in his possession 51 kg of poppy husk and Banshi R/o Savah, Rajasthan by supplying the same has committed the offence U/s 15/61/85 of NDPS ACT. Therefore, after the written complaint, the case number be informed. And for further investigation, an investigator should be sent*

*to the spot. I, ASI along with my staff and accused Baldev Singh, am present at the spot and waiting for the above mentioned case. Today near Hanuman Mandir Village Sadewala SD JASBIR SINGH S.U.N. Jasbir Singh 763/Jinda ANC Staff Sirsa. Date 07-02-2024 At. 11-00 Pm today police station Hasb Amad Bahad Rakba Village Sadewala Badast EHC Bhajan Lalan. On receipt of the original complaint in the hands of 762 in the police station, case no. 84 dated 08.02.2024 under section 15/61/85 NDPS Act was received in Police Station Rania and the copy was handed over to the police by ASI Kuldeep no. 768 along with Arinda and the special report of the case registered at the scene of incident is being sent to the service of Bajaria Email Area Magistrate Sahab and senior officers.”*

**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 the alleged recovery of 51 kgs of Poppy Husk is marginally over and above the commercial quantity. He submits that the petitioner is in custody since 10.02.2024, wherein after framing of charges on 05.09.2024 out of total 15 prosecution witnesses only one has been examined so far, meaning trial is moving slow pace.

**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 is behind bars for 1 year 3 months and 15 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that recovery of contraband i.e., 51 kgs of Poppy Husk in the present case is commercial in nature. Therefore, rigour of Section 37 of NDPS Act would be attracted in this case. She further submits that the petitioner is a habitual offender, as he is involved in other cases.

#### 4. Analysis

Considering the facts that the petitioner has already suffered incarceration of 1 year, 3 months, 15 and the recovery of contraband i.e., 51 kgs of poppy husk is marginally over and above the commercial quantity added with the fact that investigation is complete, challan stands presented on 03.08.2024, charges have been framed on 05.09.2024 and out of total 15 prosecution witnesses, only one have been examined so far, which is suffice for this Court to infer that conclusion of trial shall take considerable time, or 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 “**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.”*

As far as the contention of learned State counsel with regard to 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 lend the petitioner in a situation of denial the concession of bail.

5. **Relief:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on 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

28.05.2025

*Meenu*

*Whether speaking/reasoned*      *Yes/No*

*Whether reportable*              *Yes/No*