



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

261

CRM-M-30878-2025
DATE OF DECISION: 04.07.2025

SONI SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. J.P.S.Sarao, Advocate for the petitioner(s).
(through Hybrid Mode)
Mr. Sandeep Singh, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Prayer**

This petition has been filed under Section 483 of BNSS 2023 (439 of Code of Criminal Procedure) for grant of the regular bail to the petitioner in FIR No.143 dated 13.08.2019, U/s 22, 25 of NDPS Act, 1985 (Section 29 of NDPS act added later on) registered at Police Station City Samana, District Patiala. (Annexure P-1).

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

'It is mentioned at this time that one ruqa from ASI Sinder Singh 2540 P.S. Samana was received in the Police Station through C Karnail Singh 256 for registration of case under setion 22, 25/61/85 NDPS Act against Soni Singh son of Amar Singh, Kuldeep Singh son of Amar Singh and Ranjit Singh son of Amar



Singh, Resident of Village Muradpur and contents of the same as under: To SHO, P.S. City Samana, Jai Hind, Today, I, ASI alongwith ASI Darshan Singh 1769, Head Constable Gurpreet Singh 413, C Amrinder Singh 2216, C Karnail Singh 256 was travelling on Government vehicle bearing registration No. PB-11-CF-3801 driven by Head Constable Nirmal Singh 2303 and alongwith laptop and printer were present near Pingla Ashram at Badera Road Samana for checking the suspected and wide persons then secret informer given secret information to ASI that Soni Singh son of Amar Singh, Kuldeep Singh son of Amar Singh and Ranjit Singh son of Amar Singh, resident of Muradpur, P.S. Samana, District Patiala and who used to sell intoxicant tablets and at this time, Car bearing registration No. PB-11-CH-2989 Marka Swift, Car bearing registration No. PB-13-BD-9500 Marka Mohindra SUV-500, Car bearing registration No. PB-13-AW-8428 Marka Swift was parked in the plot of Soni Singh son of Amar Singh, resident of Village Muradpur bring/take the intoxicant tablets in huge quantity in his car bearing No. PB-11-CH-2989 Marka Swift and they are transferring the intoxicant tablets as per their share in two vehicles Marka Swift bearing No. PB-13-AW-8428 and XUV-500 bearing No. PB-13-BD-9500 for supplying to customers and they will found there around there in hide seek position. If now search be conducted of these cars and plot then intoxicant tablets be recovered in huge quantity from these Cars and plot. These three brothers are doing the business of selling intoxicant tablet on their cars. Information is true and believable. Soni Singh son of Amar Singh, Kuldeep Singh son of Amar Singh and Ranjit Singh son of Amar Singh, resident of Muradpur, P.S. Samana, District Patiala for committed the offence under section 22, 25/61/85 of NDPS Act by keeping the intoxicant tablets in their cars and plots and by taking or supplying to the customers. So therefore, Ruqa has been forwarded to Police Station through C Karnail Singh 256 for registration of case against Soni Singh son of Amar Singh, Kuldeep Singh son of Amar Singh and Ranjit Singh son of Amar Singh, resident of Muradpur, P.S. Samana, District Patiala. Case/file number be intimated after registration of case



and Incharge Room Patiala and Higher officer be informed. SHO P.S. Samana has been informed telephonically about information and for sending any competent officer for investigation of case and for recovery. I ASI alongwith colleagues were going to take care the cars and plot and for waiting of competent officer on the spot in the area of Village Muradpur. Area Near Pingla Ashram Badera Road at Samana At 4.50 PM. Sd/- Sinder Singh ASI PS Samana Dated 13.08.2019. Upon receiving ruqa, case has been registered against Soni Singh son of Amar Singh, Kuldeep Singh son of Amar Singh and Ranjit Singh son of Amar Singh, resident of Muradpur, P.S. Samana, District Patiala and record is completed. Copies of FIRs be forwarded before Magistrate Sahib, and higher officers through post. Incharge Control Room Patiala informed separately through E-mail. ASI Sinder Singh has mentioned in ruqa for forwarding any competent officer for recovery due to NDPS case, Upon this, ASI along with ASI Darshan Singh 3233, HC Sukhwinder Kumar 1891 alongwith original ruqa & original case file alongwith, C Karnail Singh 256 left for recovery.'

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. He has contended that the present case was lodged on the basis of secret information, however, there is a violation of Section 42 of NDPS Act. He submits that there is violation of Section 50 of NDPS Act as well. He further submits that the case of the prosecution is that all three persons against whom the alleged secret information was received were not present there and thereafter the police conducted the search but nothing was recovered from car PB-13-BD-9500 make SUV 500 Mahindra, and other car PB-13-AW-8428 make swift dezire. However, from the search of car, PB-11-CH-2989 make swift, the alleged recovery was allegedly



effected but that car was already sold by the petitioner to Gurbaj Singh s/o Balbir Singh on 27.05.2019. He further points out that co-accused Ranjit Singh was enlarged on regular bail by this court vide order dated 07.01.2022 passed in CRM-M-34513/2022 (Annexure P-4). Similarly, co-accused Kuldeep Singh was granted anticipatory by Special/ trial court vide order dated 01.09.2023 Annexure P-5. He further submits that the plot from which alleged recovery was shown to have been recovered was not owned by the petitioner.

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.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender as he is involved in other FIRs also but is not in a position to controvert the submissions made by learned counsel for the petitioner.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 years and 6 days, similarly situated co-accused have already been granted concession of bail by this Court, nothing has been recovered from the conscious possession of the petitioner 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 30.10.2023 charges stands framed on 19.01.2024 out of 26 prosecution witnesses, only 6 PWs have been examined so far and 2



PWs have given up, 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.”*

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 the concession of bail.

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

04.07.2025
anuradha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No