



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-11550-2025  
DECIDED ON: 06.03.2025

BHUPINDER SINGH

....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Satnam Singh Gill, Advocate  
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

**SANDEEP MOUDGIL, J (ORAL)**

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 BNSS for grant of regular bail to the petitioner in case FIR No.876 dated 22.12.2023, under section 15(C) NDPS Act, 1985 (Later on added Sections 29 and 31 NDPS Act, 1985), Police Station Sadar Thanesar, District Kurukshetra.

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

*“Copy of statement, To, the Incharge Officer, Police Station Sadar, Thanesar, Jai Hind. Today on 22.12.23 the undersigned Inspector Sukhpal no.265/KR Incharge Haryana State Narcotics Control Bureau, Kurukshetra alongwith ASI Vinod Kumar No.643/PPT, EHC Naresh Kumar No.890/KKR, EHC Santram No.966YNR on government vehicle HRO5GV9449 make ISUZU being driven by EHC Vinay Kumar No. 557/PPT, at about 12.30AM, departed from Haryana State Narcotics Control Bureau Unit Kurukshetra and while passing by Bus Stand Kurukshetra Sector 7 and Sector 2,3 cut, while searching out crime and*

*intoxicant substance, at about 01.30 AM reached at GT Road Umri Chowk Kurukshetra then in the meantime the special secret informer met with the undersigned Inspector and gave secret information that Gursharan Singh son of Sahab Singh resident of Baras District Fatehgarh Sahib Punjab and Bhupender Singh alias Pinda son of Bakhshish Singh resident of village Raipur Gujran District Fatehgarh Sahib (Punjab) in collusion with each other, buy doda churapost (poppy husk) from Madhya Pradesh and bring it by hiding in the goods loaded in their canter no.PB11DD8345 and do the work of supplying poppy husk in Punjab. Today also the above said Gursharan Singh and Bhupender Singh in their canter, by loading goods from Madhya Pradesh, after some time are coming towards Pipli Kurukshetra from Karnal side and while passing by Pipli Ambala will go to Punjab. If check post is established on GT Road and canter no. PB11DD8345 is apprehended and the above said Gursharan: Singh and Bupender Singh personally and their canter are searched then large quantity of poppy husk can be apprehended from the possession of both of them. The secret information being confirmed and reliable, notice under section 42 NDPS Act was prepared on 02.00AM and was sent through ASI Vinod Kumar no.643/PPT to Shri Pardeep Kumar HPS Deputy Superintendent of Police Kurukshetra. After that, the undersigned Inspector informed the companions about the secret information and started checking the vehicles coming from Karnal side alongwith companions on GT Road near National Institute of Design. Only after a while one canter was seen coming, to which the undersigned Inspector made sign by showing torture and got it stopped on side. It was checked and the number of the canter was found PB11DD8345. Two persons were found sitting in the above said canter, to whom the undersigned Inspector informed about my name, designation and posting and enquired their name address and one young boy sitting on driving seat of the above said canter informed his name Gursharan Singh son of Sahab Singh resident of Baras Police Station Alla Singh Badaal District Fatehgarh Sahib Punjab and the person sitting on side seat informed his name Bhupender Singh alias Pinda son of Bakshish Singh resident of village Raipur Gujran Police Station Bassi Pathana District Fatehgarh Sahib Punjab. The undersigned Inspector requested the above said Gursharan Singh and Bhupender Singh alias Pinda to keep sitting in their canter. The undersigned Inspector stopped the*

*passersby passing on the road and requested to join the investigation but everyone shown their respective compulsions and went away from the spot. The undersigned Inspector informed the above said Gursharan Singh and Bhupinder Singh alias Pinda through separate notices under section 50 NDPS Act that I have doubt about intoxicant substance with you and in your above said canter. Hence, it is very necessary to search out you and your above said canter and you have the legal right that you can get yourself and your above said canter searched from some Magistrate or some gazetted officer. Separate notices U/s 50 NDPS Act were prepared and were read over to above said Gursharan and Bhupender Singh alias Pinda and were made understood. The above said Gursharan and Bhupender Singh alias Pinda and witness EHC Naresh Kumar no.890/KKR and EHC Vinay Kumar No.557/PPT put their respective signatures. After thinking for sometime and understanding it, the above said Gursharan and Bhupender Singh alias Pinda separately informed that we want to get ourselves and our above said canter searched in front of some gazetted officer. Separate consent notices under section 50 NDPS Act were prepared and were read over and made understood to the above said Gursharan and Bhupender Singh alias Pinda. The above said Gursharan and Bhupender Singh alias Pinda and witness EHC Naresh Kumar no.890/KKR and EHC Vinay Kumar no.557/PPT put their respective signatures on separate consent notices under section 50 NDPS Act. After that at about 3.45 AM, the undersigned Inspector from mobile no.97299-51090 made telephonic call to Shri Pardeep Kumar HPS Deputy Superintendent of Police Kurukshetra on his mobile no.70567- 00103 and informed him about the situation and requested to come on the spot, thereupon the Deputy Superintendent of Police informed that I am at my residence and after some time i will reach to you. At about 04.30 AM, Shri Pardeep Kumar HPS Deputy Superintendent of Police on government vehicle alongwith staff reached at place of incident. Alongwith him ASI Vinod Kumar also came present on the spot and ASI Vinod Kumar handed over me a copy of notice U/s 42 NDPS Act received by DSP, which was kept. The undersigned Inspector again informed DSP about the situation and both the notices under section 50 NDPS Act and both consent notices U/s 50 NDPS Act were submitted before the DSP. The DSP seen all four notices U/s 50 NDPS Act and put his signatures. After that the DSP*

*informed he above said Gursharan and Bhupender Singh alias Pinda about his designation, name and place of posting and enquired them. After that the DSP, searched out the undersigned Inspector with regard to intoxicant substance. During the personal search of the undersigned Inspector, no kind of intoxicant substance was recovered. Memo of search was prepared. The above said Gursharan and Bhupender Singh alias Pinda, the undersigned Inspector and witness EHC Naresh Kumar no.890/KKR and EHC Vinay Kumar no.557/PPT put their respective signatures on the merno. After that under the orders of the DSP, at first Gursharan and thereafter Bhupender Singh alias Pinda were personally searched with regard to the intoxicant substance. During the search, no intoxicant substance was found in the clothes worn by the above said Gursharan and Bhupender Singh alias Pinda. After that in the search of the cabin of canter no.PB11DD-8345 make Bharat Benz, the cabin and body color of which is white, original RC of the above said canter was found inside the desk board, according to that the name of owner of canter no. PB11DD-8345 is Gurdeep Kaur wife of Sahab Singh resident of Baras District Fatehgarh Sahib Punjab, which is issued by Registration Authority, RTA Patiala Punjab. Besides this, things were found inside the desk board of the cabin of the canter i.e. loaded goods bill, two weigh / kanta slips and one bill according to which total 120 bags of onions are loaded in the canter no. PB11DD-8345 which has been issued by the shop no. 108, New Potato Onion Market Maali Trading Company Indore Madhya Pradesh on 20.12.23 and other documents were also found consisting total 5 pages. According to that these 120 bags of onions are to be sent to Mehma Fruit Company Patiala Punjab. After that during the search of the body of the above said canter, five heavy weight bags of white color and five bags of black color were found kept hiding in onion bags kept in the body. On enquiring about them, Gursharan and Bhupinder Singh alias Pinda informed that out of these 10 plastic bags, there is poppy husk/chura post in 5 bags of white color and there is doda chura post in 5 bags of black color. All of above said recovered 10 plastic bags were taken down from the above said canter and at first white color bags were opened and checked then chura post was found in the transparent polythene inside the white color plastic bag. The recovered plastic bag of chura post alongwith transparent polythene were weighed with the computer weighing machine available in the*

*government vehicle then the weight of chura post was 30 kilo 200 gram. The recovered chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing chura post was sealed with my two seals SP and the parcel containing churapost was marked with letter A. After that second white color bag was opened and checked then chura post was found in the transparent polythene inside the white color plastic bag. The recovered plastic bag of chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of chura post was 30 kilo 200 gram. The recovered chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing chura post was sealed with my two seals SP and the parcel containing churapost was marked with letter B. After that third white color bag was opened and checked then chura post was found in the bag. The recovered plastic bag of chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of chura post was 30 kilo 200 gram. The recovered chura post was put into that same plastic bag and parcel was prepared of the transparent polythene. and the parcel containing chura post was sealed with my two seals SP and the parcel containing churapost was marked with letter C. After that fourth white color bag was opened and checked then chura post was found in the transparent polythene inside the white color plastic bag. The recovered plastic bag of, chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of chura post was 30 kilo 200 gram. The recovered chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing chura post was sealed with my two seals SP and the parcel containing churapost was marked with letter D. After that fifth white color bag was opened and checked then chura post was found in the transparent polythene inside the white color piastic bag. The recovered plastic bag of chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of chura post was 14 kilo 200 gram. The recovered chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing chura post was sealed with my two seals SP and the parcel containing churapost was marked with letter E. After that sixth black color bag was opened and checked then doda chura post*

*was found in the transparent polythene inside the bag. The recovered plastic bag of doda chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of doda chura post was 25 kilo 200 gram. The recovered doda chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing doda chura post was sealed with my two seals SP and the parcel containing doda churapost was marked with letter F. After that seventh black color plastic bag was opened and checked then doda chura post was found in the transparent polythene inside the bag. The recovered plastic bag of doda chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of doda chura post was 25 kilo 200 gram. The recovered doda chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing doda chura post was sealed with my two seals SP and the parcel containing doda churapost was marked with letter G. After that eighth black color plastic bag was opened and checked then doda chura post was found in the transparent polythene inside the bag. The recovered plastic bag of doda chura post alongwith transparent poythene was weighed with the computer weighing machine then the weight of doda chura post was 25 kilo 200 gram. The recovered doda chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing doda chura post was sealed with my two seals SP and the parcel containing doda churapos was marked with letter H. After that ninth black color bag was opened and checked then doda chura post was found in the transparent polythene inside the bag. The recovered plastic bag of doda chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of doda chura post was 25 kilo 200 gram. The recovered doda chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing doda chura post was sealed with my two seals SP and the parcel containing doda churapost was marked with letter I. After that tenth black color bag was opened and checked then doda chura post was found in the transparent polythene inside the bag. The recovered plastic bag of doda chura post alongwith transparent polythene was weighed with the computer weighing machine then the weight of doda chura post was 16 kilo 200 gram. The recovered doda*

*chura post was put into that same plastic bag and parcel was prepared of the transparent polythene and the parcel containing doda chura post was sealed with my two seals SP and the parcel containing doda churapost was marked with letter J. Total weight of all ten plastic bags of recovered churapost/doda chura post and transparent polythene was 2 quintal 52 kilogram. After that the undersigned Inspector put my 2 seals of SP separately on two cloth bags and prepared two separate sample seals. After the use, the seal was handed over to EHC Naresh Kumar no.890/KKR. After that the DSP also put his two seals of PK on all ten bags of chura post/doda chura post and also put his 2 seals of PK on both sample seals. The DSP, after using the seal, kept the same with him and attested all the parcels containing case property of chura post/doda chura post and both sample seals. All ten parcels containing case property chura post/ doda chura post including both sample seals, canter no.PB11DD- 8345 alongwith original RC alongwith loaded goods onions alongwith bill and other documents and rope were taken into police custody as evidence vide memo. Memo of seizure was prepared. The above said accused persons Gursharan Singh and Bhupender Singh alias Pinda and witnesses EHC Naresh Kumar no.890/KKR and EHC Vinay Kumar No.557/PPT put their respective signatures on the memo. DSP attested the memo of seizure and put his signatures. The above said accused persons Gursharan Singh and Bhupender Singh alias Pinda by keeping 2 quintal 52 kilogram doda chura post alongwith plastic bags in their custody have committed offence under section 15(c)-61-85 NDPS Act. Thereupon the document is written and is being sent through EHC ! Sant Ram No.966/YNR to the police station Sadar Thanesar for registration of case. After registering the case, case number may be informed and special report of the case in hand may be sent to the senior officers and other investigation officer may be sent on the spot for investigation of the case. The undersigned Inspector alongwith companions alongwith the accused persons and case property is present at the place of incident.”*

### 3. Contentions

#### On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was only working as a cleaner on the offending truck being an employee of

one Gurdeep Kaur to whom the truck belongs and the said offending vehicle was driven by other co-accused namely Gursharan Singh who is in custody. It has been contended on behalf of the petitioner that he is a man of clean antecedents as he is not involved in any other case.

**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 recovered contraband i.e. 02 Quintal 52 Kilograms Dodha/Poppy straw is commercial in nature.

4. **Analysis**

Be that as it may, considering the custody period i.e. 01 year, 02 months and 06 days for which the petitioner has suffered incarceration and the fact that the petitioner was only an employee of one Gurdeep Kaur who owns the said offending vehicle in addition to the fact that the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate

Also, investigation is complete, challan stands presented to Court on 15.06.2024, charges have been framed on 24.09.2024 and out of total 26 prosecution witnesses none has been examined so far, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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.

5. **RELIEF:**

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

**06.03.2025**

*Poonam Negi*

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*