



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

244

CRM-M-12641-2025

Date of Decision : **March 11, 2025**

VED MASIH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. J.S.Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

(1) The petitioner has filed petition under Section 483 of BNSS seeking regular bail in case FIR No.54 dated 6.3.2023 under Sections 21-C, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Special Task Force, District STF Wing.

Facts

2. Facts as emerging in the FIR read as under:-

“Copy of ruqa, "Station House Officer, Police Station S.T.F., S.A.S. Nagar (Mohall), Jai Hind. Today, I, ASI, alongwith SI Harpal Singh No. 1913/T.T., SI Sumeet Singh 35 CP/ASR, L/SI Gurwinder Kaur 40/BR, ASI Kashmir Singh No. 1684/CP/ASR, ASI Gurwinder Singh 383 Amritsar Rural, ASI Manpreet Singh 9/86, ASI Amanjiwanjot Singh 4/93, ASI Shamsher Singh 3216/ASR, HC Jatinder Singh 3041/ASR., S/Ct

Mohit Bedi No. 2265/BTL, HC Jagroop Singh 3869/ASR with Laptop, Printer on official vehicles Mahindra No.PB-65-AX-5414, driver of which is ASI-Harjit Singh 9/65, and Swift Dezire PB-65-AU-1184, driver of which is C2 Ajai Kumar 3267/ASR, were present near India Gate Atari Road Amritsar Police Station, that at about 03:10 PM, special informer came to me, ASI and gave information that VedMasih @ Ved son of Satnam Singh, resident of Village BasarkeBhani, District Amritsar Rural and Ranjit Singh @ Rana son of Jaswant Singh resident of Village BhaknaKhurd, District Amritsar, together sell heroin on a large scale and supply it in Amritsar and nearby areas. Even now accused Ved Masih @ Ved son of Satnam Singh resident of above is waiting for his customers on his Hero Deluxe motorcycle No. PB-08-EV-5854 at Gurdwara Tahli Sahib near Attari Road Amritsar to supply heroin to his customers. If a raid is conducted right now, he can be apprehended with a large quantity of heroin. On which I, A.S.I., relieved the Informant and informed the fellow employees about the information and after describing the outlook of the accused, reached the place mentioned by the informant with fellow employees. When I reached the place mentioned by the informer, a haircut young man was seen standing near a motorcycle branded Hero Deluxe No. PB-08-EV-5854, as per the description given by the special informer. He got on the motorcycle, started the motorcycle and started running away on seeing the police party in uniform. I, ASI, apprehended him with the help of fellow employees and asked his name and address. The young man apprehended told his name as VedMasih @ Ved son of Satnam Singh resident of Village Basarke Bhani, District Amritsar. On which I, A.S.I., got identified myself to the young man apprehended as per law and told the entire situation to Sh. VavinderKumar, P.P.S./D.S.P., S.T.F., Border Range, Amritsar through mobile

phone and requested him to reach on the spot. After about half an hour the D.S.P. along with his gunmen reached on the spot on a government vehicle. To whom I, A.S.I., made aware of the entire situation again. After being aware of the situation, Sh. Vavinder Kumar, P.P.S./D.S.P., S.T.F. Border Range, Amritsar got himself introduced to apprehended young man Ved Masih @ Ved son of Satnam Singh resident of Village Basarke Bainsi, District Amritsar Rural, that I am Vivender Kumar, P.P.S., posted as D.S.P., S.T.F. Border Range, Amritsar. I am in uniform and have a name plate. I am a gazetted officer appointed by the Punjab government. I have received information that you and your motorcycle have heroin. Due to which you and your motorcycle need to be searched. But you have the legal right to get yourself and your motorcycle searched by a magistrate or any other gazetted officer. For which I can make an arrangement. On which accused Ved Masih @ Ved son of Satnam Singh resident of Village Basarke Bhainsi, District Amritsar, said that I have full faith in you. I want to get myself and my motorcycle searched in your presence. On which a consent memo was prepared separately. Accused Ved Masih @ Ved above said signed the memo in Punjabi. Before conducting search of accused Ved Masih @ Ved son of Satnam Singh resident of Village Basarke Bhainsi, District Amritsar Rural, I, A.S.I. to involve the witness from public in the police party but nobody was ready to join the police party due to fear of enmity. Then, as per the instructions of the D.S.P., I, A.S.I., conducted the searched of apprehended Ved Prakash @ Ved son of Satnam Singh resident of Village Basarke Bhainsi, District Amritsar Rural, then a heavy transparent polythene envelope was found from the waist belt of Ved Prakash @ Ved son of Satnam Singh resident of above said, in which heroin was clearly visible. Later, when the polythene envelope was opened and checked, heroin was found

in it. I, A.S.I. weighed the recovered heroin on an electronic scale along with the polythene envelope. On weighing, the heroin in the polythene envelope was 500 grams. I, A.S.I., put it in a separate plastic box and prepared a cloth parcel. I, A.S.I., sealed the parcel with my seal with initials "HS" and Sh. Vavinder Kumar, D.S.P., sealed it with his initials "VK". Sample seal was prepared separately and I, A.S.I., seized the recovered heroin weighing 500 grams in the parcel plastic box with seal "HS+VK" as a case property along with sample seal in police custody through a separate recovery memo. I, A.S.I. handed over my seal to ASI-Gurjinder Singh No. 383, Amritsar Rural, after using it and the D.S.P. kept his seal with himself after using it. Accused Ved Masih @ Ved son of Satnam Singh resident of Village BsarkeBhani, District Amritsar Rural, has committed a cognizable offences under Section 21-C, 25, 29, 61, 85 N.D.P.S. Act by keeping 500 grams of heroin in his possession."

3. **Submissions of the petitioner**

Learned counsel for the petitioner contends that the petitioner is a young boy and has been falsely implicated only on the personal vendetta and his entire life and future is at stake. He further avers that he is not involved in any other case. He further avers that nothing was recovered from the petitioner and he has been nominated on the basis of disclosure which has no credential value.

Stand of the State

(4) Custody certificate dated 10.3.2025 has been filed by the learned State counsel, which is taken on record. Learned State counsel further submits that the investigation qua the present petitioner is complete and challan

against him has been presented on 28.8.2023 and there are 17 witnesses and out of 17 witnesses, six have been examined and three have been given up.

5. **Analysis**

Considering the custody period undergone by the petitioner i.e. 2 yeas and he is not involved in any other case of similar nature and the fact that co-accused, namely, Deepak has been granted the relief of regular bail by this Court vide CRM-M-31746-2024 and the fact that the conclusion of the trial is likely to take time and no fruitful purpose would be served by keeping the petition behind the bars, the petitioner is not involved in any other case, as is evident from custody certificate in addition to the fact that investigation is complete, challan stands presented to Court on 28.8.2023, charges have been framed on 10.10.2023 and total 17 prosecution witnesses are cited, 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. **DECISION:**

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.

March 11, 2025
ajay-1

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No