

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

CRM-M No. 7824 of 2016
Date of decision : October 19, 2016

Rachpal Singh

..... Petitioner

v.

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. AGS Dhillon, Advocate
for the petitioner.

Mr. KS Pannu, DAG Punjab

Ajay Tewari, J (Oral)

The petitioner seeks grant of regular bail in case FIR No.70, dated 17.7.2014, registered under Sections 15, 22, 25, 29, 61, 85 of the NDPS Act, Sections 379, 48 of the IPC, and Sections 25/54 of the Arms Act, at Police Station Ghagga, District Patiala.

Counsel for the petitioner has argued that the alleged recovery in this case is 52 kgs of poppy husk and the petitioner has been in custody since 30.7.2015.

Counsel for the respondent, on instructions from ASI

Kulwinder Singh, states that the petitioner has been in custody in other cases. He has, however, admitted that in all the cases in which the petitioner is involved he is under trial and has not been convicted in any case.

This Court in Tejinder Singh @ Teja vs State of Punjab and others (CRM-M No.21934 of 2015), decided on 17.03.2016, held as follows :-

“ In my opinion, the arguments of the learned counsel for the petitioner carry more weight. In *Anupam J.Kulkarni's case* the Hon'ble Supreme Court clearly laid down that the purposes of computing the period of 60/90 days under Section 167 Cr.P.C., concurrence of under-trial detention has to be given to the accused person. Once that is so it can not be said that the same would be limited to bail for the purpose of Section 167 Cr.P.C only and would not extend for the grant of bail under Sections 436, 437 and 439 Cr.P.C. This is so because even if a person may be an accused in many cases yet as long he remains only an accused he is the 'spoilt child of the criminal justice system' and entitled to the benefit of presumption of innocence (and the attendant benefits) and, therefore, his under-trial detention in one case has to be counted as under-trial detention in any other case when the period over-laps. To hold otherwise may give a license to the prosecution to keep involving an accused person in case after case just to stall his bail. Thus it has to be held that when a person is accused and is in custody in more than one case then that period of custody which over-laps with the period of custody in any other case would be counted towards his under trial detention in all cases. To illustrate :- If a person is arrested in 4 cases on the same day and the trial is not concluded for two years

then he can claim that he has under gone two years custody in each of the cases for the purpose of bail and it would not be open to the prosecution to argue that infact his custody was only in the first case in which he was arrested.”

In these circumstances, without commenting upon the merits of the case, and keeping in view the period of custody already suffered by the petitioner, as well as the dictum in Tejinder Singh's case (supra), I do not deem it appropriate to deny the concession of regular bail to the petitioner.

Bail to the satisfaction of the trial Court/Duty Magistrate.

Petition stands disposed of.

October 19, 2016
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No