

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M No.13568 of 2017.

Date of Decision: July 19, 2017

Manpreet Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.Pradeep Virk, Advocate, for the petitioner.
Ms.Manjri Nehru Kaul, Additional AG, Punjab.

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Surya Kant, J. (Oral)

This is petitioner's 3rd petition filed under Section 439 Cr.P.C. seeking grant of regular bail in case FIR No.69 dated 08.03.2013 under Sections 21/22/61/85 of the NDPS Act and registered at Police Station Mandi Gobindgarh, District Feteahgarh Sahib.

[2] The petitioner is a Non Resident Indian and is a citizen of Canada. As per the allegations contained in the FIR, Police party was present at the bridge of Canal Focal Point near Super Milk Factory, Ajnali on 8.03.2013 in connection with apprehension of drug smugglers. The petitioner alongwith his co-accused Gabbar Singh was seen coming in a Ford Endeavour Vehicle bearing registration No.PB-10-CL-0014 at about 11.30 a.m. The vehicle was stopped and on search 2 Kg.Heroine, 20 Kg. Intoxicant Powder and Rs.one crore cash were recovered from them. The petitioner, on the other hand, claims that the above-stated story is totally false and fabricated. He alleges that two police officials headed by Inspector Ramandeep Singh and two more Inspectors forcibly entered his

Singh Nagar, Ludhiana on the night of 02.03.2013 and threatened that the petitioner and his family will be booked in a false drugs case if they were not paid bribe of Rs.50 lacs. It is further the case of the petitioner that the police Inspectors Ramandeep Singh, Avtar Singh and Sukhvir Singh were in the area where he resides in Ludhiana, as could be seen from the call records of their mobile numbers. These records also show that none of them was present near Gobindgarh Town of District Ludhiana from where the petitioner was allegedly arrested. The petitioner also alleges that he alongwith his friend Ravinder Grewal @ Robin were allegedly abducted by the police and taken to CIA, Sirhind where they were mercilessly tortured. Later on the petitioner's friend was released and was allowed to go to Canada for which he had confirmed return ticket.

[3] The petitioner further alleges that he was again threatened on 07.03.2013 with involvement in a false case by the police including a Senior Superintendent of Police. The bribe money was increased from Rs.50/- lacs to Rs.one crore. The petitioner is said to have accepted that demand and he tried to arrange the illegal gratification.

[4] The petitioner, thereafter, has his own version as to how money was to be arranged and where it was to be paid.

[5] Based upon these facts, the petitioner earlier approached this Court by way of CRM-M No.17238 of 2014 seeking his release on bail as also a direction to hand-over the investigation of the case to Central Bureau of Investigation. The above-stated petition was taken up alongwith a bunch of cases wherein also CBI investigation was sought in other drugs cases. This Court vide order dated 07.10.2015 declined the prayer for CBI investigation and directed the State to constitute a Special Investigating

Team comprising three officers of the rank of IG and directed them to examine the complete records of each drug case so as to identify the missing links, lack of proof or the evidence which could be credible but was not collected or made part of the record for some obvious reasons. The SIT was given liberty to submit supplementary challan in a time bound manner.

[6] In deference to those directions, FIR No.69 dated 08.02.2013 registered against the petitioner was also examined and supplementary report has been eventually submitted by the SIT.

[7] Owing to the nature of allegations, the alleged recovery effected from the petitioner's person and the fact that there were allegations of his involvement in drugs related cases in Canada and USA, his prayer to release him on bail was declined.

[8] The petitioner thereafter moved Criminal Misc.-M No.42515 of 2015 with a prayer to grant bail. The said petition was also dismissed on 02.06.2016 keeping in view the fact that 10 witnesses were left to be examined out of whom six were bound down for the next date of hearing. Since the petitioner also approached the trial Court for production of documents, a direction was issued to the trial Court to decide such application promptly so that trial may be concluded expeditiously.

[9] The instant 3rd petition has been filed by the petitioner in the last week of April, 2017..

[10] The petitioner seeks his enlargement primarily on the grounds that; (i) he is incarcerated for the last more than four year; (ii) Royal Mounted Canadian Police has informed that the petitioner's family has not been found involved in any case; (iii) In the supplementary challan, a list of ten witnesses has been submitted and the trial is not likely to be concluded

very soon; (iv) the private witnesses have since been examined and there is no likelihood of the petitioner tempering with the evidence; (v) this Court may impose stringent conditions which the petitioner would always abide, and (vi) the deposition of some of the witnesses meanwhile gives credence to the petitioner's allegations.

[11] On the other hand, learned Additional Advocate General, Punjab, opposes the petitioner's case. She urges that the name of the petitioner has surfaced in the international illicit drugs transaction and it would be totally unsafe to release him on bail at this juncture as he might attempt to escape from the consequences. She submits that there is no delay on the part of the prosecution in concluding the trial as all the 38 prosecution witnesses, as per the original list, have been examined or given up. She argues that some of the prosecution witnesses are yet to be cross-examined and such delay cannot be attributed to the prosecution. As regard to supplementary challan, it is stated that out of the additional witnesses cited therein, six are official witnesses and all such witnesses shall be made available for examination as and when the trial Court fixes the date. It is stated at bar that prosecution would not seek any adjournment for examination of these witnesses.

[12] We have given our thoughtful consideration to the rival submissions. True it is that the petitioner is in custody for more than four years. However, having regard to the nature of allegations which surely attract the rigors of Section 37 (1) (b) (ii) of the N.D.P.S., Act, 1985 coupled with the fact that the prosecution has apparently not delayed the trial, especially in view of the current stage of the trial, it appears to us that as of now it may not be desirable to release the petitioner on bail. With efforts

made jointly by the learned trial Court and the prosecution alongwith full cooperation of defence counsel, the trial, in our considered view, can be concluded expeditiously. This would, however, not hamper the right of the defence to lead its evidence and to examine as many as witnesses as it choses to do. In fact, we are inclined to make the trial time bound especially when the Presiding Officer has been entrusted exclusively NDPS cases only. Such a direction, however, is not acceptable to learned counsel for the petitioner as according to him, about 40 witnesses are to be examined by the defence. We accept his prayer and refrain from fixing any time limit for conclusion of the trial.

Dismissed.

[SURYA KANT]
JUDGE

July 19, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

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