

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

CRM-M-18325 of 2018

Date of Decision: 08.05.2018

Rajan

....Petitioner

Versus

State of Punjab

....Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Shaurya Puri, Advocate
for the petitioner.

Mr. A.S. Dhaliwal, DAG, Punjab.

MAHABIR SINGH SINDHU, J.(Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No.73 dated 15.09.2015 registered under Sections 22,61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Bholath, District Kapurthala.

This case reflects a very sad state of affairs in a trial pending under the provisions of the NDPS Act against the present petitioner and his co-accused. The Zimni orders from 20.09.2017 uptill date read as under:

“State Versus Amandeep Singh NDPS 700 of 2016

Present: Sh. Anil Kumar Addl. PP for the State.

Both accused in custody with their counsel Sh. Rajiv Puri,

No PW is present. PW SI Mukhtiar Singh is absent despite bound down.

To procure his present let his bailable warrants in the sum of Rs.5000/-

with one surety in the like amount be issued for 12.10.2017.

Dt:20.09.2017

Kafeel

(Jitender Walia)

UID PB 0111

JSC-I/Kapurthala

Next Date:-12.10.2017

Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016

Present: Sh. Anil Kumar Addl. PP for the State.

Both accused in custody.

Sh. Rajiv Puri, advocate ld. defence counsel for accused.

No PW is present. Bailable warrants of SI Mukhtiar Singh be issued

afresh as per last order for 3.11.2017.

Dt:12.10.2017

Kafeel

(Jitender Walia)

UID PB 0111

JSC-I/Kapurthala

Next Date:-3.11.2017

Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016

Present: Sh. Anil Kumar, ld. Addl. PP for the State.

Both accused in custody not produced.

Sh. Rajiv Puri, advocate counsel for accused.

Accused not produced by the jail authorities. Let their production warrants be issued for 29.11.2017.

No PW is present. Bailable warrants of PW SI Mukhtiar Singh be issued for the date fixed.

Dt:3.11.2017

Kafeel

(Jitender Walia)

UID PB 0111

JSC-I/Kapurthala

Next Date:-29.11.2017

Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016

Present: Sh. Anil Kumar, ld. Addl. PP for the State.

Both accused in custody not produced.

Sh. Rajiv Puri, advocate counsel for accused.

Accused not produced by the jail authorities. Let their production warrants be issued for 23.1.2018.

No PW is present. Bailable warrants of PW SI Mukhtiar Singh be issued for the date fixed.

Dt:29.11.2017
Kafeel

(Jitender Walia)
UID PB 0111
JSC-I/Kapurthala

Next Date:-23.1.2018
Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016
CNR No.-PBKPO1-004918-2016

Present: Sh. Anil Kumar, Id. Addl. PP for the State.
Both accused in custody not produced.
Sh. Rajiv Puri, advocate counsel for accused.

File has been put up before me being duty officer as the concerned presiding officer is on Leave. Accused not produced by the jail authorities. Let their production warrants be issued for 19.2.2018.

No PW is present. Summons to PW SI Mukhtiar Singh be issued for the date fixed.

Dt:23.1.2018
Kafeel

(Gurdarshan Kaur Dhaliwal)
JSC/Kapurthala (Duty)
(UID No.PB 0146)

Next Date:-19.2.2018
Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016
CNR No.-PBKPO1-004918-2016

Present: Ld. Addl. PP for the State.
Both accused in custody not produced.
Sh. Rajiv Puri, advocate counsel for accused.

File has been put up before me being duty officer as the concerned presiding officer is availing earned Leave. Accused not produced by the jail authorities. Let their production warrants be issued for 12.03.2018. Summons to the prosecution witnesses be also issued for the date fixed.

Dt:19.2..2018
Kafeel

(Gurdarshan Kaur Dhaliwal)
JSC/Kapurthala (Duty)
(UID No.PB 0146)

Next Date:-12.3.2018
Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016
CNR No.-PBKPO1-004918-2016

Present: Ld. Addl. PP for the State.
Both accused in custody not produced.
Sh. Rajiv Puri, advocate counsel for accused.

File has been put up before me being duty officer as the concerned presiding officer is availing earned Leave. Accused not produced by the jail authorities. Let their production warrants be issued for 12.03.2018. Summons to the prosecution witnesses be also issued for

the date fixed.

Dt:12.3.2018
Kafeel

(Gurdarshan Kaur Dhaliwal)
JSC/Kapurthala (Duty)
(UID No.PB 0146)

Next Date:-26.3.2018
Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016
CNR No.-PBKPO1-004918-2016

Present: Ld. Addl. PP for the State.
Both accused in custody **but not produced**.
Sh. Rajiv Puri, advocate counsel for accused.

File has been put up before me being duty officer as the concerned presiding officer is availing earned Leave. Accused not produced by the jail authorities. Let their production warrants be issued for 9.4.2018. Summons to the prosecution witnesses be also issued for the date fixed.

Dt:26.3.2018
Kafeel

(Gurdarshan Kaur Dhaliwal)
JSC/Kapurthala (Duty)
(UID No.PB 0146)

Next Date:-9.4.2018
Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016
CNR No.-PBKPO1-004918-2016

Present: Sh. Anil Kumar Additional PP for the State.
Both accused in custody but not produced.
Sh. Rajiv Puri, advocate counsel for accused.

File has been put up before me being duty officer as the concerned presiding officer is availing earned Leave. Accused not produced by the jail authorities. Let their production warrants be issued for 23.4.2018. Summons to the prosecution witnesses be also issued for the date fixed.

Dt:9.4.2018
Kafeel

(Muneesh Arora)
JSC/Kapurthala (Duty)
(UID No.PB 0135)

Next Date:-23.4.2018
Purpose:-”

“State Versus Amandeep Singh NDPS 700 of 2016
CNR No.-PBKPO1-0049182-016

Present: Sh. Arvind Sahai, Id. Additional PP for the State.
Both accused in custody but not produced.
Sh. Rajiv Puri, advocate counsel for accused.

Accused not produced by the jail authorities. Let their production warrants be issued for 8.05.2018. Summons to the prosecution witnesses be also issued for the date fixed.

Dt:23.4.2018
Kafeel

(Jitender Walia)
UID No.PB 0111
JSC-1/Kapurthala

Next Date:-8.5.2018
Purpose:-”

Perusal of the Zimni orders reveals that either no PW was present or the accused was not produced by the jail authorities for the reasons best known to them, but the fact remains that the petitioner is in custody since 15.12.2016 and the charges were framed on 04.05.2017. There are total 9 Pws and out of them only two have been examined till date. Even the Investigating Officer-SI Mukhtiar Singh was not present despite repeated bailable warrants issued by learned trial Court, but atleast the petitioner cannot be blamed for the delay in trial Court proceedings.

In view of above and the fact that the petitioner is in custody since 15.12.2016 and the trial is likely to take a long time to be concluded and as such no useful purpose would be served by keeping the petitioner behind the bars any more.

Therefore, in view of the abovesaid circumstances, without expressing any opinion on the merits of the case, this petition is accepted. Petitioner-Rajan be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

Let necessary legal action be initiated against the Investigating Officer-SI Mukhtiar Singh by the competent authority as well as against the other jail officials/officers who had failed to perform their duties while not producing the accused during trial. The comments of the Judicial Officer be also called as to what are the

reasons for not securing the presence of SI Mukhtiar Singh as PW.

Copy of this order be sent to Commissioner of Police, Jalandhar and Superintendent Central Jail at Kapurthala for further necessary action.

For awaiting report, adjourned to 30.05.2018.

[MAHABIR SINGH SINDHU]
JUDGE

May 08, 2018
rashmi

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no