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

CRM-M No. 18010 of 2020
Date of Decision: 09.07.2020

Swaran Singh @ Sona

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vivek K. Thakur, Advocate,
for the petitioner.

Mr. J.P. Ratra, D.A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner seeks grant of regular bail in his third attempt in case bearing FIR No.130 dated 07.06.2006 under Section 15 of NDPS Act registered at Police Station Sidhwan Bet, District Ludhiana (Rural).

FIR was registered on 07.06.2006. At about 8 A.M., when the police party reached on the metalled road, then about 100 yards away, 03 bags with open mouth were lying towards the western side below a kikkar tree. Three persons were sitting on the bags and were waiting for their customers. On seeing the police party, two persons ran away towards the canal and one person was arrested, who disclosed his name as Baldev Singh.

On the disclosure of Baldev Singh, the persons who ran away from the spot were identified as Sona (petitioner) and Nishan Singh. Petitioner was declared as proclaimed offender on 03.02.2014 and he was arrested by the police on 19.11.2014 and since then, he is in custody. The alleged recovery is of 105 Kg 600 gms of poppy husk.

First bail application of the petitioner i.e. CRM-M No.8638 of 2019 was dismissed as withdrawn vide order dated 05.03.2019.

Petitioner again approached this Court vide CRM-M No.17596 of 2019, in which following order was passed:-

“Learned State counsel on instructions from ASI Gursewak Singh states that arguments have been heard by the Trial Court and there is every likelihood that the case be decided either on the next date of hearing or soon thereafter. The case is fixed for 11.02.2020 before the Trial Court.

In view of above, learned counsel for the petitioner does not press this petition, however, with liberty to file fresh petition in case the disposal of the case is unnecessary delayed before the Trial Court.

*Dismissed as not presses with the liberty
aforesaid.”*

Co-accused Baldev Singh who was arrested from the spot was granted regular bail by this Court on 22.02.2008 in CRM No.2919-M of 2008 in his second attempt.

Petitioner was involved in five other NDPS cases, out of which, in four cases, he has been acquitted. In FIR No.99 dated 05.09.2012 under Sections 15/25 of NDPS Act registered at Police Station Jodhan, Ludhiana, he has been convicted and sentenced to undergo rigorous imprisonment for 10 years along with fine of Rs.1 lac on 28.02.2018.

As per custody certificate, under trial period of the petitioner is from 18.09.2012 to 10.04.2013 and 19.11.2014 to 27.02.2018 and this period comes out to be 3 years 10 months and 01 day. Since the petitioner was convicted and sentenced in FIR No.99 on 28.02.2018, therefore, further period cannot be covered in the said case.

In the aforesaid conviction, petitioner filed CRA-S No.4635-SB of 2018 in the High Court in which sentence has been suspended vide order dated 28.03.2019.

In this way, subsequent period w.e.f. 29.03.2019 would be added in the total period undergone in the present case which would come out to be 03 years, 10 months and 01

day + 01 year, 03 months = 05 years and 01 month as on date.

Evidently, while deciding CRM-M No.17596 of 2019 on 04.02.2020, liberty was given to the petitioner to file fresh petition in case disposal of the case is unnecessarily delayed before the trial Court. Prosecution evidence has already been concluded. The case is at the stage of defence evidence and arguments.

Due to pandemic COVID-19, disposal of the case is being delayed and such delay is not attributed to the petitioner in any manner.

Learned counsel for the petitioner has relied upon **Dalip Singh @ Deepa vs State of Punjab, 2010(2) RCR (Criminal) 566** and states that the petitioner cannot be detained for such a long period. He refers to para no.40 of the judgment to contend that delay in disposal of the case by the trial Court would infringe valuable right of the petitioner of speedy disposal under Article 21 of the Constitution of India.

Learned State counsel states that in view of earlier withdrawal of CRM-M No. 8638 of 2018, indulgence cannot be granted to the petitioner. Petitioner has some antecedent criminal behaviour as he is involved in other cases, however, he admits that the petitioner has been acquitted in four NDPS Act cases.

Since the sentence has been suspended in appeal arising out of FIR No.99 dated 05.09.2012 under Section 15/25 of NDPS Act and in the present case, petitioner has undergone about 05 years and 01 month of actual sentence, therefore, in view of prevailing circumstances arising out of pandemic COVID-19, there are remote chances of disposal of trial by the trial Court in near future. Therefore, petitioner is entitled for regular bail.

In view of above, petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

09.07.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No