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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-2126-2020 (O&M)
Date of Decision:08.04.2021

Gagandeep Singh @ Gagan Petitioner

Versus

State of Punjab Respondent

2. CRM-M-41268-2020 (O&M)
Date of Decision:08.04.2021

Gurbhej Singh @ Bheja Petitioner

Versus

State of Punjab Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay K. Jindal, Advocate
for the petitioner in CRM-M-2126-2020.

Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner in CRM-M-41268-2020.

Mr. Sandeep Verman, Addl. A.G., Punjab.

ANIL KSHETARPAL, J.(Oral)

The hearing of the case was held through video conferencing
on account of restricted functioning of the Courts.

By this order, CRM-M-2126-2020 and CRM-M-41268-
2020, arising from a criminal trial pending before the Trial Court, shall
stand disposed of.

In compliance with the order dated 05.02.2021, an additional
affidavit of Sh. Dhruvan H. Nimbale, IPS, Senior Superintendent of
Police, Tarn Taran, has been filed.

These are the second petitions for grant of bail to respective accused pending trial in FIR No.86 dated 10.08.2017 registered under Section 307/34, 474 IPC, 1860, Section 25/27 Arms Act, 1959 and Section 21 NDPS Act, 1985 at Police Station Chohla Saheb, Distt. Tarn Taran.

The first bail application filed by two accused including Gagandeep Singh was dismissed on 29.05.2019 with the following order .

“By this order, CRM-M-20257-2018 and CRM-M-4648-2019, arising from a criminal trial pending before the Court shall stand disposed of.

Gagandeep Singh @ Gagan and Janga Singh @ Jang Bahadur have prayed for grant of concession of regular bail in FIR No.86 dated 10.08.2017 registered under Sections 307, 474, 34 of the Indian Penal Code (offence under Section 473 IPC added later on) and under Section 21/61/85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 and under Section 25/54/59 of the Arms Act, at Police Station Chohla Sahib, District Tarn Taran.

*Learned counsel for the petitioners have argued at length and relied upon large number of judgments passed by Hon'ble the Supreme Court as well as by this Court. The precise argument of learned counsels for the petitioners is that only actual narcotic content can be considered while determining as to whether the recovery from the petitioners falls under the category of commercial or not. In substance their submission is that neutral substance/material cannot be taken into consideration. It may be noted that in case of **Hira Singh and another Vs. Union of India and another, (2017) 3 SCC 162**, Hon'ble the Supreme Court has referred the matter to Larger Bench in which hearing has started.*

On the other hand, learned counsel for the State has drawn attention of the Court to number of cases pending against each of the petitioner.

As per custody certificate filed in the case of Gagandeep Singh i.e. CRM-M-20257-2018, it is found that petitioner is involved in two other cases under Narcotic Drugs and Psychotropic Substances Act, 1985 whereas he is involved in another case under Sections 392/506 IPC read with 25/54/59 Arms Act. He is also involved in another FIR No.83 dated 09.08.2017 under Section 379/34 IPC. No doubt, he has been acquitted in one case under Section 307 IPC and other Sections of the Indian Penal Code and Arms Act, however, keeping in view the larger number of cases, this Court is required to consider that whether the

petitioners are to be granted concession of regular bail or not.

After considering the arguments of learned counsel for the parties, this Court is of the view that at this stage, it would not be appropriate for the Court to express any opinion on the merits of the case lest it may prejudice the trial of the case. However, keeping in view the fact that petitioner Gagandeep Singh is involved in four more cases which are pending out of which two are under NDPS Act, concession of regular bail to the petitioner can not be granted.

As regards prayer of Janga Singh, it may be noted that on 01.04.2019, State Counsel had submitted that three more cases are pending against the petitioner. Although, it is true that petitioner was not caught at the spot, however, keeping in view the allegations and the fact that the police party was fired upon when effort was made to stop the vehicle in which they were travelling with forged number plate, this Court does not find that the petitioner deserves concession of regular bail.

Accordingly, both the petitions are dismissed. However, learned trial Court is requested to make sincere endeavour to complete the trial as expeditiously as possible”.

It has been brought to the notice of the Court that the

petitioner in CRM-M-2126-2020 is involved in multiple criminal cases.

In the affidavit filed today, the details of various cases, pending or disposed of, has been provided, which is extracted as under:

Sr No.	FIR No/Dated	Under Section	Police Station	Recovery & Status
1.	74, Dated 12.07.2017	21, 61, 85 NDPS Act	Chohla Sahib Tarn Taran	100 gm Heroin, Car i20 number PB 46-U-8795, Under Trial
2.	76, Dated 23.07.2017	307, 336, 452, 506, 148, 149 IPC, 25, 27, 54, 59 Arms Act	Chohla Sahib Tarn Taran	Acquitted on 03.07.2018
3.	86, Dated 10.08.2017	307. 34, 474 IPC, 25, 54, 59 Arms Act, 21, 61, 85 NDPS	Chohla Sahib Tarn Taran	300 gm Heroin, one Rifle 12 bore double barrel, 4 live round, 4 empty cartridges. 1 car Etios number PB-29-P-3794, Under Trial
4.	270, Dated 25.12.2014	21, 61, 85 NDPS Act	Sadar Tarn Taran	100 gm Heroin Under Trial

5.	296, Dated 03.08.2017	392, 506 IPC, 25, 54, 59 Arms Act	Sadar Jugron	Rs.4000/- One Mobile Samsung, Under Trial
6.	83, Dated 09.08.2017	379, 34 IPC	Harikae, Tarn Taran	Under Trial

Learned counsel for the petitioners in both the petitions contend that the petitioners are in custody for more than three years. On the other hand, learned Additional Advocate General submits that the prosecution evidence is being recorded and the deposition of four prosecution witnesses has already been recorded.

In view of aforesaid facts, it is considered appropriate to direct the trial Court to conclude the trial within a period of six months positively.

Accordingly, both the petitions are disposed of. However, the Senior Superintendent of Police, Tarn Taran, is directed to ensure the presence of prosecution witnesses on the date to be fixed by the trial Court.

08.04.2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No