

214

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-8883-2021

Date of decision: 25.10.2021

BHINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This is the fifth petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.347, dated 25.12.2018, registered under Section 18 of NDPS Act, 1985 at Police Station Civil Lines, District Patiala, as the earlier one were dismissed as withdrawn.

A new ground for filing this petition is that the petitioner is in long custody for more than 02 years and 04 months and the trial has not concluded. Additionally, the counsel for the petitioner submits that the petitioner is not maintaining good health and requires urgent medical attention.

At the very instance, learned counsel for the petitioner relies upon the order dated 04.08.2021 passed in CRM-M-29386-2021 and the order dated 03.09.2021 passed in CRM-M-34641-2021 vide which two of

the co-accused namely Pawan Kumar and Harjinder Singh @ Jinder have been granted the concession of regular bail.

The operative part of order reads as under:-

“Learned counsel for the petitioner relies upon order dated 04.08.2021 passed in CRM-M-29386-2021, vide which co-accused Pawan Kumar has been granted concession of regular bail by this Court in similar circumstances. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per the allegations in the FIR, registered on receiving a secret information that Bhinder Singh, Harjinder Singh @ Jinder and petitioner Pawan Kumar are coming in a private vehicle and they are habitual of selling opium.

On receiving such information, FIR was registered and a raiding party was prepared which was headed by ASI Beant Singh and they apprehended petitioner Pawan Kumar who was driving the car bearing registration No.HR-16J-4077 and recovery of 06 kg of opium was effected.

Learned counsel for the petitioner submits that earlier on two occasions, the petitioner was granted the concession of interim bail, firstly for awaiting report of FSL, vide order dated 09.04.2019, passed by this Court in CRM-M-15270-2019 and then vide order dated 28.08.2020, passed in CRM-M-10550-2020 and he has not misused the same. After availing the interim bail, the petitioner has surrendered back. Learned counsel for the petitioner further submits that the petitioner is in custody for the last 02 years 01 month and 09 days and he is not involved in any other case.

Learned counsel for the petitioner submits that there are moot points to be decided during the trial are regarding the non-compliance of Sections 42 and 50 of the Act. It is further submitted that out of 12, only 5 PWs have been examined so far as the trial was delayed substantially due to COVID-19 situation and will take sometime.

Learned State counsel has filed the custody certificate and as per the said custody certificate, the petitioner is in custody for more than 02 years 01 month and 09 days and he is not involved in any other case.”

Learned State counsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last 02 years, 03 months and 04 days and he is not involved in any other case.”

The counsel for the petitioner has submitted that the petitioner is not maintaining good health and he is in custody for the last 02 years, 04 months and 13 days and is not involved in any other case. It is also submitted that out of total 17 prosecution witnesses, only 04 witnesses have been examined so far.

Reply by of affidavit of Superintendent Central Jail, Patiala along with the report of the Medical Officer of the jail is on record.

The Medical Officer, Central Jail, Patiala, has submitted that the petitioner is taking medicines for heart disease as well as for diabetes and hyper-tension.

The health/medical card of the petitioner is also attached with the reply showing that he is under treatment.

After hearing the counsel for the parties, considering the fact that the petitioner is in long custody and two of his co-accused have already been released on regular bail and also considering the health condition of the petitioner, this petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

25.10.2021

Ali

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No