

211 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-4613-2022 (O&M)

Date of Decision: 24.11.2022

JUGRAJ SINGH ALIAS JAGGA

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Hitesh Chopra, Advocate for the petitioner.  
Mr. Amit Shukla, AAG Punjab.  
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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 75 dated 22.06.2019 under Sections 21/22/27-A/29 of the NDPS Act, registered at Police Station Sadar Batala, District Gurdaspur.

Custody certificate and short reply by way of affidavit of Sarvanjit Singh, Deputy Superintendent of Police, Sub Division Fatehgarh Churian, Police District Batala on behalf of the State have been placed on record.

Learned counsel for the petitioner contends that at the first instance, Gopal Singh, co-accused was spotted by the Police party, who allegedly threw a polythene bag containing 7 gms of heroin and managed to slip away. Subsequently, in pursuance of the secret information to the effect that Gopal Singh is residing with the petitioner, a raid was conducted and the petitioner was allegedly apprehended with 513 gms of heroin. Thereafter, in pursuance of the disclosure statement of the petitioner, Pushpinder was nominated as an accused and on the basis of disclosure statement of

Pushpinder, Sanjeev was nominated as an accused. Gopal and Pushpinder are on bail and furthermore, the proceedings for declaring Sanjeev as proclaimed offender are pending. The custody certificate indicates that the petitioner is involved in another case under NDPS Act bearing FIR No. 176 dated 19.11.2019 registered at Police Station City Batala but he has been granted bail by this Court in terms of the order dated 10.11.2021 passed in CRM-M-33659-2021. In the other case, the petitioner was sought to be nominated on the basis of the disclosure statement of the co-accused and while granting bail, it was observed by this Court that the name of the petitioner is not appearing in any of the disclosure statements made by the co-accused and it will be a matter of trial as to how he has been nominated in the said case. Furthermore, in the case bearing FIR No. 219 dated 23.09.2014 under Sections 336, 342, 452, 148, 149 IPC and 25 of Arms Act, registered at Police Station Beas, the petitioner is on bail. The other 2 cases pertain to the offence under Section 52-A of Prisons Act. The petitioner is in custody for a period of 3 years, 2 months and 23 days and till date no witness has been examined. The petitioner is not a previous convict in any other case much less under NDPS Act.

Learned counsel for the petitioner has relied upon the decisions of Hon'ble the Supreme Court of India rendered in ***Criminal Appeal No. 668 of 2020*** titled as ***Amit Singh Moni Vs. State of Himachal Pradesh***, wherein bail has been granted to the accused in a case pertaining to the recovery of commercial quantity, after he had completed more than 02 years and 07 months of actual custody. Furthermore, it has been argued that in ***SLP (Crl.) No. 5769 of 2022*** titled as ***Nitish Adhikary @ Bapan vs. The State of West Bengal***; decided on 01.08.2022 by the Hon'ble Supreme Court of India, the

accused was granted bail in a case pertaining to the recovery of commercial quantity after he had undergone custody for a period of 1 year and 7 months and trial was at a preliminary stage, as only 1 witness had been examined and the accused was not having criminal antecedents. Besides, in a decision rendered in **SLP (Crl.) No. 4173 of 2022**, decided on 04.08.2022 titled as **Shariful Islam Vs. Sarif Vs. The State of West Bengal**, the accused was granted bail after he had suffered incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in near future.

Learned State counsel has opposed the bail application on the score that the quantity of contraband recovered in the instant case falls in the category of commercial quantity and he is involved in 11 other cases.

It may be mentioned here that the petitioner has been acquitted in 5 cases. It has already been observed that in the other case under NDPS Act, the petitioner has been granted bail as it was observed that there is a doubt with regard to the nomination of the petitioner as an accused on the basis of the disclosure statement of the co-accused. Furthermore, he is stated to be on bail in the other cases and has not been convicted in any other case much less under NDPS Act.

In the status report furnished by the learned State counsel, the reason assigned for delay in framing of charges is Covid-19 pandemic. However, it has been pointed out that the charge was framed on 10.08.2022 and till date no witness has been examined. The petitioner cannot be kept in incarceration for a long period of time during the course of trial, particularly, because the trial is not progressing and he is in custody for a period of more than 3 years. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

(VIVEK PURI)  
JUDGE

24.11.2022

Janki

*Whether speaking/reasoned : Yes/No*  
*Whether reportable : Yes/No*