

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-10783 of 2021
Date of decision:31.01.2022

Amritpal Singh @ Shinda

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Piyush Khanna, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

This is the third petition filed under Section 439 Cr.P.C seeking grant of regular bail to the petitioner in case FIR No.41 dated 12.06.2019 registered under Sections 22 and 29 the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”) at Police Station Balachour, District SBS Nagar (Annexure P-1).

FIR (Annexure P-1) has been registered after a motorcycle was intercepted and recovery of 80 injections of Buprenorphine and 80 injections of Avil, was effected. The motorcycle was being driven by Pardeep Singh @ Baba and Amritpal Singh @ Shinda (present petitioner) was on the pillion.

Counsel for the petitioner contends that though the recovery of contraband from the petitioner falls within the ambit of commercial quantity

and the previous petition (CRM-M-22719 of 2020) seeking grant of regular bail was dismissed by this Court on 13.08.2020, yet there is no progress in the trial. He submits that long custody of the petitioner alone, keeping in view his unblemished past, entitles him to be released on bail.

Per contra, State counsel upon instructions from ASI Hans Raj, has opposed the petition and submitted that bar as contained in Section 37 of NDPS Act, is attracted. As per his instructions, the challan has been presented on 22.11.2019 and the charge has been framed on 13.12.2019 but no prosecution witness has been examined. On basis of the custody certificate dated 31.01.2022, which is taken on record, State counsel is not in a position to dispute that the petitioner is not involved in any other criminal case.

I have considered the submissions made by counsel for the parties.

Hon'ble Supreme Court in **Union of India Vs. K.A.Najeeb 2021(2) RCR (Criminal) 145** after noticing the provisions of Section 37 of NDPS Act, has held that once the timely trial is not possible and the accused is languishing in jail for extended period of time, the Court is obligated to enlarge the accused on bail.

Considering that despite the charge having been framed in December, 2019, no witness has been examined and there is a little possibility of early conclusion of trial due to situation emerging because of the spread of third wave of pandemic, this Court is of the view that the

petitioner, who has clean past and is in custody for the last more than 02 years and 07 months, would be entitled to be released on regular bail.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

January 31, 2022
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>