

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

207

CRM-M-17328-2019

Date of Decision: 06th April, 2022

PREM SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. G.S. Sandhu, Advocate,
for the petitioner.

Ms. A.K. Khurana, DAG, Punjab.

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VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.01, dated 03.01.2018 under Sections 21 and 30 of NDPS Act, 1985, (Sections 66-D and 66-F of Information Technology Act, 2008, Section 135 of Customs Act, 1962, Section 25 of Arms Act, 1959, Section 3 of Official Secret Act, 1923 and Section 489-A, 489-B, 489-C of the IPC have been deleted) registered at Police Station Special Operation Cell, District Fazilka.

The instant FIR had been registered for various offences, however, the final report in the case had been filed only under Section 21-C of NDPS Act, 1985 and the offences pertaining to Information and Technology Act. Customs Act, Arms Act, Official Secrets Act as well as the offences relating to the Indian Penal Code were deleted later on. It is contended by the learned counsel for the petitioner that the case in question was registered on secret information that co-accused Nishan Singh son of Joginder Singh, who was confined in Central Jail, Ferozepur was indulging

in the trade of narcotic drugs and psychotropic substances. It is alleged that the petitioner was involved in selling drugs after obtaining the same from Pakistan-based operators. On the basis of the said secret information, the petitioner was apprehended and 3 kilograms of heroin is stated to have been recovered from him. Learned counsel contends that as per the custody certificate filed by the respondent/State, the petitioner has already undergone actual custody of 04 years, 02 months and 25 days. He further submits that the petitioner does not have any criminal antecedents and is not involved in any other case under NDPS Act. He also made reference to various zimini orders passed by the Trial Court to contend that an application under Section 311 of Cr.P.C. has been moved by the prosecution for leading additional evidence alongwith relevant record. He submits that the proceedings are not likely to culminate expeditiously. Reliance is placed on the judgment of Union of India Vs. K.A. Najeer reported as 2021(1) RCR (Criminal) 145 and upon order dated 17.01.2020 passed by this Court in CRM-M-37111 of 2020 in the matter of Mandeep Singh Vs. State of Punjab, order dated 30.03.2022 passed in CRM-M-16333 of 2020 in the matter of Major Singh Versus State of Punjab, order dated 10.12.2021 passed in CRM-M-40598 of 2021 in the matter of Surjit Singh @ Jeetan Vs. State of Punjab as well as on the order dated 02.03.2022 passed in CRM-M-7844 of 2022 in the matter of in the matter of Mukhtiar Singh @ Kali Vs. State of Punjab, where similar concession has been extended to the petitioners after taking into consideration their protracted incarceration and the stage of trial. In the matter of **Surjeet Singh @ Jeetan (supra)** the recovery was 3 kilograms of heroin and the period of custody was only 03

years and 05 months and, in the matter of **Mukhtiar Singh @ Kali (supra)** the recovery was 3½ kilograms of heroin and the period of custody was 3 years and 9 months. He submits that his case would be at par on the principles of law with the orders so passed by this Court.

Ms. A.K. Khurana, DAG, Punjab, has made reference to the custody certificate to point out that the actual custody is 04 years, 02 months and 25 days. However, she could not controvert that there is no other criminal case against the petitioner. It is also not denied by her that an application under Section 311 of Cr.P.C. for leading additional evidence is pending for consideration before the Judge, Special Court, Fazilka and the same is presently fixed for 25.05.2022. The FIR in question was registered on 03.01.2018 and a total of 15 witnesses were to be examined.

I have heard the learned counsel for the parties.

Having considered the submissions made by the counsel for respective parties and taking into consideration the stage of the trial, the period of custody already undergone by the petitioner, the clean antecedents of the petitioner and his non-involvement in any other case under the NDPS Act, 1985 as also the ratio of judgment of **Union of India Vs. K.A. Najeed (supra)** and other aforementioned judgments passed by this Court, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Judge, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or

indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

06.04.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No