

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

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CRM-M-18693-2020 (O&M)

Date of Decision: 01.08.2022

Tarsem Singh

.....Petitioner

V/s.

State of Punjab

.....Respondent

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

Present: Mr. Prince Sharma, Advocate for
Mr. Prashant Vashisth, Advocate for the petitioner

Mr. Karanbir Singh, AAG Punjab

VINOD S. BHARDWAJ, J. (Oral)

(1) The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.6 dated 07.06.2019 under Sections 18/29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the Act) registered at Police Station SSOC, Amritsar.

(2) Briefly, the case of the prosecution is that on 07.06.2019 the investigating officer had received a secret information that an international smuggler of opium Tarsem Singh (present petitioner) and Chamkaur Singh having links with big smugglers in UP are bringing consignment in Ferozepur and side by areas. It was also informed that the contraband has been brought from Bareilly in UP and that in case a proper *naka bandi* is carried out they can be intercepted along with being in possession with opium. While acting upon the said information, a police party headed by SI Raj Singh apprehended Tarsem Singh and Chamkaur Singh from the area of Tarn Taran-Amritsar Bypass near Delhi Public School and recovered 4 kh 800 gms of opium from

their possession. On the basis of the said recovery, the present FIR has been registered.

(3) Learned counsel for the petitioner submits that the petitioner suffers from 55% physical disability and since his arrest on 11.06.2019, he has already undergone actual custody of 3 years, 1 month and 20 days. He contends that the trial has not proceeded any further and no witnesses have been examined so far.

(4) *Per contra* learned State counsel submits that the petitioner has criminal antecedents and that there are other cases registered against him. It is, however, not disputed by learned counsel that in FIR No.80 dated 10.05.2014, the petitioner has already undergone the sentence and that he was acquitted in FIR No.51 dated 25.04.2015 and FIR No.53 dated 01.01.2015. Further, in the pending FIR No.272 dated 01.12.2017, the petitioner is already on bail in the said case. It is not disputed by her that the petitioner has undergone actual custody of more than 3 years, 1 month and 20 days. Besides, she also concedes that no evidence has been recorded so far.

(5) Taking into consideration that the petitioner has already undergone an actual custody of more than 3 years, and that the trial is yet to commence, I am of the opinion that Article 21 of the Constitution would come into play in a situation where the process of trial has not been expeditiously concluded. The accused is entitled to expeditious disposal of his case and instead, it would cause grave prejudice in case the accused suffers incarceration despite the trial not progressing.

(6) In view of the above, and taking into consideration the period of actual custody undergone by the petitioner, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

(7) Accordingly, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite heavy bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned. The petitioner shall remain present on all the dates of hearing before the trial court unless exempted by the Court on an appropriate application.

(8) 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.

(9) 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.

(10) The petition is allowed.

01.08.2022
V.Vishal

(VINOD S. BHARDWAJ)
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>