

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

CRM-M-22627-2022 (O&M)

Date of decision: 27.05.2022

Jaswant Singh @ Jassa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Gagandeep Rana, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 246 dated 11.12.2020, under Sections 21 and 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station Lohian, District Jalandhar-Rural.

The first petition, bearing CRM-M-15244-2021, was dismissed as withdrawn on 21.03.2022 and the new ground for filing the present petition is that the petitioner is in judicial custody for the last 01 year, 03 months and 18 days and the trial is not proceeding.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Inspector Jarnail Singh, it is stated that while on a patrol duty, a secret information was received that Parminder Singh @ Bhinda s/o Resham Singh is confined in Ferozepur Jail and he is indulged in smuggling of heroin from the jail itself through his friends Rakesh Kumar @ Kesha s/o Balwant Singh, Jaswinder Singh s/o

Sukhdev Singh and Gursewak Singh s/o Gurcharan Singh and have procured a consignment of heroin and illegal arms from Srinagar in a car. It was further stated that Rakesh Kumar @ Kesha and Jaswinder Singh are in a process to make further arrangements at the house of Jaswinder Singh to sell it off and if a raid is conducted, a huge quantity of heroin can be recovered. On this, a ruqa was sent to the police station and thereafter, a raiding party was constituted and the aforesaid two persons, Rakesh Kumar @ Kesha and Jaswinder Singh, were arrested and 04 kgs. of heroin was recovered, i.e. 02 kgs. each from Rakesh Kumar @ Kesha and Jaswinder Singh along with a country made pistol.

Learned counsel further submits that the petitioner was not named in the secret information and even was not present at the place, from where the recovery was effected from aforesaid co-accused.

It is further submitted that during investigation, the police recorded the disclosure of co-accused Parminder Singh @ Bhinda, in which the petitioner was nominated as an accused and the petitioner was arrested. After the arrest of the petitioner, disclosure of the petitioner was also recorded, in which he stated that he was to purchase 01 kg heroin from co-accused Rakesh Kumar @ Kesha and Jaswinder Singh, however, no narcotic/contraband was recovered from the petitioner and even no drug money was recovered from him to co-relate his own disclosure that he was indulged in that business.

Learned counsel further submits that though the petitioner is involved in some other cases under the provisions of IPC, however, he stands acquitted in majority of the cases, as per judgment attached with this petition as Annexures P-4 to P-7 and in two FIRs under the NDPS Act, he is

on bail and facing trial.

It is further submitted that the petitioner is in judicial custody for the last 01 year, 03 months and 18 days; out of 12 prosecution witnesses, 05 witnesses have been examined and conclusion of trial is likely to take a long time.

Learned counsel for the petitioner further submits that in view of the judgments rendered by Hon'ble Supreme Court in *Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1* and *State By (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69*, it will be a matter of trial whether disclosure of the co-accused is admissible against the petitioner or not, though there is a disclosure of petitioner himself, however, the same is not followed by any recovery.

Learned State counsel, on the basis of the custody certificate filed today in Court, has not disputed the factual position. It is also not disputed that the petitioner stands acquitted in some of the cases and in pursuance to his disclosure, no recovery was effected from him.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances and also in view of the ratio of law laid down by Hon'ble Supreme Court in aforesaid judgments, the instant 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/Illaqa Magistrate, concerned.

27.05.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*