

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30886-2022 (O&M)
Date of decision: 03.08.2022

Baljit Singh

... Petitioner

Vs.

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)

Prayer in this 2nd petition is for grant of regular bail in FIR No.246 dated 11.12.2020 under Sections 21, 29 of NDPS Act and Section 25 of Arms Act, registered at Police Station Lohian, District Jalandhar, earlier one was dismissed as withdrawn on 21.03.2022.

Learned counsel for the petitioner submits that new ground for filing this second petition is that the petitioner is in custody since 11.12.2020 and out of total 12 prosecution witnesses, only 05 PWs have been examined.

Learned counsel for the petitioner has relied upon the order dated 27.05.2022 passed in CRM-M-22627-2022, vide which regular bail was granted to co-accused Jaswant Singh @ Jassa. The operative part of the order reads as

under: -

“The first petition, bearing CRM-M-15244-2021, was dismissed as withdrawn on 21.03.2022 and the new ground for filing the present petition is that the petitioner is in judicial custody for the last 01 year, 03 months and 18 days and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 of 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/Illaq Magistrate, concerned.”

Learned counsel has submitted that even against the petitioner, there is no allegation that he was named in the secret information and rather only evidence against him is disclosure statement of co-accused Parminder Singh @ Bhinda that the petitioner was supposed to purchase 500 grams of heroin from co-accused Rakesh Kumar @ Kesha and Jaswinder Singh. It is further submitted that the petitioner was arrested from his home on 15.12.2020 and except recovery of Rs.2.00 lacs, no contraband was recovered from him. It is also submitted that the petitioner is already undergoing the sentence in another case for a period of 11 years and he was released on parole immediately after he was arrested in the present FIR.

Learned State counsel has, however, opposed the prayer for bail on the ground that the petitioner has misused the concession, while on parole, however, it could not be disputed that when the petitioner was arrested, no narcotic substance was recovered from him and only recovery of money was effected.

Learned State counsel has filed the custody certificate in the Court today, according to which, the petitioner is undergoing sentence in the aforesaid case, though he stands arrested on 15.12.2020 in the present FIR and his custody, as on today, is more than 01 year and 06 months and only 05 PWs have been examined, out of total 12 prosecution witnesses.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

03.08.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No