

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-36478-2021 (O&M)
Date of Decision:- 30.3.2022

Tarsem Singh Petitioner
Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vijay K. Jindal, Advocate, for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Avtar Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.179, dated 22.8.2020, Police Station Sarai Amanat Khan, District Tarn Taran, under Sections 18/21 of NDPS Act.
2. As per the case of prosecution, the petitioner is owner of fields situated near the International Indo-Pak Border. It is the case of prosecution that on 22.8.2020, BSF officials during the course of routine patrolling came across 8 sandals (footwear), lying in the paddy fields of farmer namely Tarsem Singh (petitioner). The said sandals were wrapped in two polythene packets. When the soles of the said sandals were ripped off, yellow coloured packets were found

concealed in the sandals which were found to contain 2.416 kg of 'Heroin' apart from 30 grams of 'Opium'.

3. The BSF officials produced the said contraband before SI Dilbag Singh, Officer Incharge, Police Station Sarai Amanat Khan, District Tarn Taran.
4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that he cannot by any stretch of imagination be connected with the alleged recovery. It has further been submitted that even as per the case of prosecution, the petitioner was nowhere present near the spot from where the recovery was effected by the officials of BSF. Learned counsel further submits that in any case the petitioner has been behind bars for a substantial period of 1 year and 4 months and in these circumstances he deserves the concession of bail inasmuch as the trial has not even commenced till date.
5. Opposing the petition, learned State counsel has submitted that since the recovery of contraband was effected from the fields of the petitioner situated near the fence on the International Border where it is only the petitioner who would have access and no other individual is permitted to enter the said fields, it is apparent that it is the petitioner only who would have kept concealed the contraband in his fields and as such his complicity is clearly evident. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last 1 year and 4 months and that although challan has been presented, but charges are yet to be framed and as

many as 21 PWs have been cited. It has also been informed that the petitioner is not involved in any other case.

6. I have considered rival submissions addressed before this Court.
7. The petitioner, who is in custody since 23.11.2020, has been behind bars for a substantial period of about 1 year and 4 months and is stated to be having a clean record. The conclusion of trial is likely to consume more time inasmuch as trial is yet to commence and as many 21 PWs have been cited.
8. Hon'ble the Supreme Court vide order dated 7.2.2020 passed in Criminal Appeal No.245 of 2020 titled 'Chitta Biswas Alias Subhas Vs. The State of West Bengal' while dealing with a matter regarding grant of bail to an accused charged with allegations of being in possession of 'commercial' quantity of contraband, granted bail mainly on the ground that the petitioner has been in custody since 21.7.2018 and only 4 out of the cited 10 PWs had been examined.
9. In another case i.e. Criminal Appeal No.1570 of 2021 titled 'Mahmood Kurdeya Vs. Narcotics Control Bureau' pertaining to a case of recovery of 'commercial' quantity of 'Tramadol', where the accused had been in custody for about 3 years and 3 months, Hon'ble the Supreme Court vide its order dated 7.12.2021 was pleased to grant bail while making the following observations:

“.....What persuades us to pass an order in favour of the appellant is the fact that despite the rigors of Section 37 of the said Act, in the present case though charge sheet was filed on 23.09.2018 even the charges have not been framed nor trial has commenced. The manufacturer who

sold the drugs to the appellant during the sunset clause himself has been granted bail.”

10. In yet another case i.e. Criminal Appeal No.668 of 2020 titled 'Amit Singh Moni Vs. State of Himachal Pradesh', Hon'ble the Supreme Court vide its order dated 12.10.2020 was pleased to grant regular bail pertaining to a case of recovery of 'commercial' quantity of contraband on account of custody of 2 years and 7 months.
11. It is not in dispute that the petitioner was never present near the spot from where the recovery was effected and is having a clean record. Bearing in mind the long custody period of the petitioner and also that the petitioner otherwise has a clean record and the trial is yet to commence and as many as 21 PWs have been cited and conclusion of trial is likely to consume time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.3.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No