

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

**Date of Decision: September 30, 2022**

**1. CRM-M-42331-2021**

**Baljit Singh**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**2. CRM-M-53481-2021**

**Gursewak Singh**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

**Present: Mr. Satnam Singh Gill, Advocate,  
for the petitioner(s).**

**Mr. J.S. Arora, DAG, Punjab.**

**SANJAY VASHISTH, J.**

This order shall dispose of CRM-M-42331-2021 and CRM-M-53481-2021, which have been filed by Baljit Singh and Gursewak Singh, respectively, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to them in FIR No. 78, dated 16.02.2021, under Sections 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City, Barnala, District Barnala.

Order dated 14.09.2022, passed by this Court, says as

under:-

*“ Learned counsel for the petitioner (in CRM-M-53481-2022) submits that recovery in the present case is of 1500 intoxicant tablets of Tramadol Hydrochloride and the said recovery has been planted against both the petitioners. He further submits that though there is bar of Section 37 of the NDPS Act, still, being it a case of recovery of double to the non-commercial quantity, sympathetic view can be taken considering long custody and slow pace of trial.*

*In this regard, learned counsel for the petitioner submits that both the accused-petitioners are inside jail for the last about 01 year and 07 months and trial is at a very slow pace. In support of his submissions, learned counsel for the petitioner cites two judgments of the Hon’ble Apex Court rendered in **SLP (Crl.) No. 5769 of 2022**, titled as, **“Nitish Adhikary @ Bapan Vs. The State of West Bengal”**, decided on **01.08.2022** and **SLP (Crl.) No.4173 of 2022**, titled as, **“Shariful Islam @ Sarif Vs. The State of West Bengal”**, decided on **04.08.2022**.*

*On the other hand, learned State counsel prays for a short accommodation, on the premise that briefs of both these petitions are not available with him today.*

*Adjourned to 30.09.2022.*

*Meanwhile, learned State counsel will ascertain the total number of prosecution witnesses and how many have already been examined in the present case.*

*Photocopy of this order be placed on the file of another connected case.”*

Learned State counsel has filed separate replies, dated 27.08.2022, as also produced custody certificates, dated 29.09.2022, in both cases, today in the Court, which are taken on record. Copies of the same have been supplied to learned counsel for the petitioner(s).

Learned counsel for the petitioner(s) argues that though it is a case of commercial quantity recovered from the petitioner(s), but one

fact still remains that despite long incarceration, petitioner(s) are inside jail for more than 1 year and 7 months and trial is not progressing. Learned counsel further submits that being there no other case registered against the petitioner(s), they cannot be forced to remain in jail for indefinite period without examining of the witnesses at the earliest. In support of his submissions, learned counsel for the petitioner(s) reiterate reliance upon judgments of Hon'ble the Apex Court rendered in the cases of "**Nitish Adhikary @ Bapan v. The State of West Bengal**" (SLP (Crl.) No. 5769 of 2022, decided on 01.08.2022) and "**Shariful Islam @ Sarif v. The State of West Bengal**" (SLP (Crl.) No. 4173 of 2022, decided on 04.08.2022).

On the other hand, learned State counsel submits that after completion of investigation, challan was presented on 30.04.2021 and charges were framed a year back, i.e. on 20.09.2021. Learned State counsel further informed the Court that out of total 27 prosecution witnesses, one PW has been examined and the next date before learned trial Court is fixed for 26.10.2022, for recording evidence of remaining prosecution witnesses. Learned State counsel further submits that from the possession of petitioner(s), recovery of 10,000 intoxicant tablets of CARISOMA and 1500 intoxicant tablets of Tramadol Hydrochloride, was effected and both the accused were arrested from the spot. He further submits that the said quantity is commercial in nature so bar under Section 37 of the NDPS Act would apply against them.

Be that as it may. I have heard learned counsel for the

parties, perused pleadings as well as replies filed by the respondent-State in these petitions and also gone through the custody certificates produced today in the Court.

As per custody certificates, petitioner(s), namely, Baljit Singh and Gursewak Singh, have already undergone custody period of 1 year, 7 months and 11 days. No other case under the NDPS Act is shown to have been registered against them.

Another noticeable fact is that challan in the present case was filed on 30.04.2021 and charges were framed on 20.09.2021, i.e. more than a year back, but till date out of 27 prosecution witnesses, only one has been examined, for the reasons best known to the prosecution. Undoubtedly, there is delay in conducting of trial and accused cannot be detained in jail for indefinite period without conducting a speedy trial qua the allegations levelled against them by the prosecution.

On the basis of submissions made by both the sides and observations recorded here above, I deem appropriate to pass an order for release of the petitioner(s) on bail.

Accordingly, these criminal miscellaneous petitions are allowed. Petitioner(s), namely, Baljit Singh and Gursewak Singh, are ordered to be released on bail in this case, subject to furnishing of bail/surety bonds by each one of them to the satisfaction of the learned Chief Judicial Magistrate/Illaqu Magistrate/Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner(s) shall not extend any

threat and shall not influence any prosecution witnesses in any manner directly or indirectly. In case, petitioner(s) are found involved in future in any matter under the NDPS Act, prosecution would be at liberty to move appropriate application seeking cancellation of bail granted to the petitioner(s) in the present case.

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 evidence available on record.

**(SANJAY VASHISTH)**  
**JUDGE**

**September 30, 2022**

P Kapoor

Whether Speaking/Reasoned: **YES/NO**  
Whether Reportable: **YES/NO**