IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-54484-2019 (O&M)
Date of Decision: 28.03.2022

Gagu Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. L.S. Sekhon, Advocate, for the petitioner.

Mr. Rehatbir Singh Mann, DAG, Punjab
assisted by ASI Jarnail 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.112 dated 30.04.2019 at Police Station Sardulgar, District Mansa, under Section 22 of NDPS Act.

2. As per the case of the prosecution on 30.04.2019, the Police received secret information to the effect that Gurpreet Singh, Gagu Singh and Ramesh Kumar had stored huge quantity of intoxicating tablets in the house of Gaggu Singh. The information was further to the effect that Jatinder and Vinod Kumar used to supply the said tablets to them. Pursuant to receipt of said information, the raid was conducted at the house of Gaggu Singh and 22,200 tablets of Alprasafe containing 2604.14 gms of Alprazolam were recovered. It is further the case of prosecution that while Ramesh ran away from the spot, the other accused including Jatinder, Vinod, Gurpreet and Gaggu Singh were apprehended at the spot.

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3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that the police has very cleverly shown that each of the 4 accused was possessing an equal number of tablets. It has been submitted that the petitioner otherwise has a clean record and is not involved previously in any case in respect of an offence registered under NDPS Act and that since he has been behind bars for a substantial period of about 3 years, he deserves to be released on bail.

4. On the other hand, learned State counsel has submitted that since the petitioner along with 4 accused was found in conscious possession of commercial quantity of contraband, no case for grant of bail is made out. It has been pointed out that the petitioner happens to be involved in one more case under provisions of Section 52-A of Prison Act. It has been further informed that the petitioner, as on date, has been behind bars since the last about 2 years, 10 months and 22 days. Learned State counsel has further informed that, in the present case, 4 PWs out of cited 13 PWs have been examined.

5. I have considered rival submissions addressed before this Court.

6. 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.

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7. 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 'Tramodol', 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."

8. 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.

9. Having regard to the facts and circumstances of the case and the fact that the petitioner has been behind bars since the last about 2 years, 10 months and 22 days, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some 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.

28.03.2022 **(GURVINDER SINGH GILL)**

VY **JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**

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