

(223) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1616-2023
Date of Decision: 17.01.2023

PARVINDER SINGH @ GAGGU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. K.S. Brar, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

This 2nd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.06 dated 24.01.2021 registered under Sections 21, 29, 61, 85 of NDPS Act, Sections 25, 29-A, 54, 59 of Arms Act and Section 207 of Motor Vehicle Act, with Police Station City Ahmedgarh, District Malerkotla.

2. The brief facts of the case are that while the police party was on patrolling duty and reached near the under-bridge, Ahmedgarh, then at about 11.45 PM one car make Swift of white colour was coming from village Jandwali. Three persons were sitting in the car and on inquiry, the driver disclosed his name as Sukhjinder Singh @ Sukh Dhillon son of Lakha Singh. The person sitting on the conductor seat stated that his name was Parvinder Singh @ Gaggu (petitioner) son of Ranjit Singh and the persons sitting at the back side disclosed his name as Akshay Kumar @ Sunny. On checking of the car, one transparent bag of white colour was found containing intoxicating

material. One electric scale, one aluminum paper, one lighter, 12 transparent plastic bags, one pistol .32 bore, 02 magazines in which there were 7 live cartridges were also found and recovered. Thereafter, as the accused could not produce a licence regarding the weapons, the provisions of the Arms were invoked.

From the vehicle, 300 grams of heroin was recovered. From the personal search of the petitioner 10 grams powder and from that of Akshay Kumar @ Sunny 15 grams powder came to be recovered. The said powder was subsequently known to be heroin.

3. The learned counsel for the petitioner contends that the petitioner has been in custody for almost 02 years i.e. since 24.01.2021. None of the 17 prosecution witnesses had been examined so far. He was an accused in two other cases. In the case under Section 302 IPC, he had been granted the concession of bail, whereas in the case under Section 307 IPC his bail application was pending. In view of the judgment of the Hon'ble Supreme Court in case of Nitish Adhikary @ Bapan Versus The State of West Bengal, SLP (Crl.) Nos.5769/2022 arising out of judgment and order dated 04.05.2022 in CRM(NDPS) No.442/2022, decided on 01.08.2022 and followed by this Court in the case of Balraj Singh Versus State of Punjab, CRM-M-57386-2022, decided on 14.12.2022, he was entitled to the grant of bail having undergone almost 02 years of custody.

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner and his co-accused. The criminal antecedents of the petitioner did not entitle him to the grant of bail. He, however, admits the period of custody undergone

by the petitioner as also the fact that there is no other case under the NDPS Act pending against him.

5. I have heard the learned counsel for parties.

6. The Hon'ble Supreme Court in the case of **Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022** held as under:-

“As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However, no one has entered appearance on their behalf.

The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21(c) and 37 of the NDPS 2 Act, registered at Police Station Bongaon, West Bengal.

During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

The petitioner is accordingly, directed to be released on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the aforestated terms.

Pending application(s), if any, shall stand disposed of.”

This Court in the case of **Balraj Singh Versus State of Punjab,**
CRM-M-57386-2022, decided on 14.12.2022 has followed the dictum laid down by the Hon'ble Supreme Court and granted bail to the petitioner therein after he had undergone total custody of 01 year and 06 months.

7. In the present case, the petitioner has been in custody since 24.01.2021. None of the 17 prosecution witnesses have been examined so far. As such, the Trial of the present case is not likely to be concluded anytime soon. Therefore , the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Parvinder Singh @ Gaggi son of Ranjit Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

17.01.2023

JITESH

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