

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.259

Case No. : CRM-M-6680-2022

Date of Decision : January 16, 2023

Ravinder Pal Singh @ Baba Petitioner

vs.

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Amrit Singh Kang, Advocate
for the petitioner.

Mr. G. S. Shergill, AAG, Punjab.

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GURBIR SINGH, J. (Oral) :

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.291 dated 04.11.2014, under Sections 382, 392, 395, 482 IPC, 1860 and Section 25 of the Arms Act, 1959 (later on, final report under Section 173 Cr.P.C. was presented under Sections 382, 392, 395, 482 IPC, 1860, Section 25 of the Arms Act, 1959 and Sections 21-61-85 of the NDPS Act, 1985), registered at Police Station Tanda, District Hoshiarpur.

Learned counsel for the petitioner states that the petitioner along with his co-accused was arrested from a car and 500 grams of heroin was recovered from a polythene found inside the boot of the said car. The recovery of contraband was not from the person of the petitioner. As per the allegations, from the person of the petitioner, only six live cartridges of

7.65 mm were recovered. However, the petitioner has been falsely implicated in this case. Learned counsel further submits that the challan was filed in the year 2016 but still, the prosecution has failed to examine all the witnesses. The disposal of case will take long time.

On the other hand, the bail petition has been opposed by learned State counsel. Custody Certificate has been filed. It is not denied that the petitioner is in custody since 17.11.2014. It is further submitted that in another case bearing FIR No.93 dated 03.09.2014, the petitioner was convicted on 14.06.2016 and was released as sentence stood already undergone. The petitioner was also convicted in a case bearing FIR No.57 dated 04.10.2014, vide judgment passed by learned Judicial Magistrate Ist Class, Dasuya dated 12.06.2019 and was sentenced to undergo rigorous imprisonment for 03 years, with a fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 02 months under Sections 323, 324, 326, 148, 149 IPC and all the sentences were ordered to run concurrently. The sentence in this case was completed on 10.08.2019. One more case was pending against the petitioner i.e. FIR No.106 of 2017, under Section 15 of the NDPS Act at Police Station Dasuya. In all four cases, the petitioner was acquitted.

Heard learned counsel for the parties and perused the case file.

It is settled law that if a person is an under-trial in more than one case, then his custody period is to be counted in all the cases at the time of passing of sentence, unless the Court specifically orders that the said custody period is not to be counted towards the sentence passed in the said case. The petitioner is in custody since 17.11.2014. As per the latest

Custody Certificate, he has already undergone custody of 04 years 07 months and 13 days as on today. Although he is in custody since 17.11.2014 but the trial is still pending. The recovery was not effected from the person of the petitioner but it was effected from the boot of the car, in which the petitioner along with others was travelling.

It has also been held by a Full Bench of this Court in the case of **Dalip Singh alias Deepa vs. State of Punjab** reported as **2010 (2) RCR (Criminal) 566** that in case of delay by the prosecution, affecting the rights of an under-trial, remedial orders including grant of bail should be passed.

Keeping in view the law laid down in the aforesaid case and also the fact that the trial of the case is going at a very slow pace and it would take long time for completion of trial and such a long delay in disposal of trial cannot be attributed to the petitioner, no useful purpose would be served by keeping the petitioner behind bars for such long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, Hoshiarpur.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

January 16, 2023

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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.