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

(1).

CRM-M-20722-2021

Date of decision: 26.04.2023

Gurminder Singh @ Gurvinder Singh

...Petitioner

Versus

Union of India

...Respondent

and

(2).

CRM-M-22220-2021

Gurmeet Singh

...Petitioner

Versus

Union of India

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Sumati Jund, Advocate
for the petitioner(s) in both the cases.

Ms. Gurmeet Kaur Gill, Senior Panel Counsel,
for the respondent-UIO in CRM-M-20722-2021.

Ms. Sharmila Sharma, Senior Panel Counsel,
for the respondent-UIO (NCB) in CRM-M-22220-2021.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. This order shall dispose of two petitions CRM-M-20722-2021 and CRM-M-22220-2021 as these petitions pertain to same FIR and for the sake of brevity, facts are culled out from the main petition i.e. CRM-M-20722-2021.

2. Petitioner(s) have filed the instant petitions under Section 439 Cr.P.C seeking regular bail in a case FIR No.40 dated 22.08.2019 under Sections 8/15/29/60 of NDPS Act, 1985 registered at Narcotics Control Bureau, Chandigarh.

3. Learned State counsel has filed the custody certificates in both the

cases, which are taken on record. Copies thereof have been supplied to the counsel for the petitioner(s).

4. The case of the prosecution is that complainant, on 21.08.2019 at about 18.30, the team of officers of NCB was present at Ambala-Chandigarh Road, at Derabassi on the basis of secret information received by them. There, one truck bearing registration no. PB-65-AJ-0371 was found parked near Gholu Majra, Ambala-Chandigarh Road by the NCB officials. Thereafter, at about 19:40, a Car bearing registration no.CH-01-AT-0749 make Etios came there and two persons alighted from the said car and started talking with the persons sitting in the above said truck. Thereafter, the said person again sit in the above car. The truck was also got started. When the above car and truck were to run, the team of NCB apprehended the above said car and truck. On interrogation, the driver of the truck disclosed his name as Gurmeet Singh (petitioner in CRM-M-22220-2021) whereas person sitting on the conductor seat disclosed his name as Gurminder Singh (petitioner in CRM-M-20722-2021). On further interrogation, the persons traveling in the car bearing registration no.CH-01-AT-0749 disclosed their name as Amrinder Singh and Supinder Singh. On being informed, about the secret information regarding poppy husk in the said truck, all the accused got perplexed and firstly they denied the same, but then the driver and conductor of the said truck disclosed that they have concealed about 350 kg of poppy husk under the Sanitary material loaded in the said truck. They further disclosed that the poppy husk was to be unloaded at some place in Derabassi known to the said Amrinder Singh and Supinder Singh. They further disclosed that they have brought the poppy husk for delivering it to one Billa. Thereafter, the NCB team along with accused persons along with their truck and car came to the office of NCB office Building, Sector-25 (W), Udyog Path, Chandigarh and checked the said truck and during checking of above said truck,

351.910 kgs of Poppy Husk was recovered.

5. Learned counsel for the petitioner(s) contends that the petitioner(s) are innocent and have been falsely implicated in the present case. She further submits that the alleged incident is of 21.08.2019, whereas the search of the truck was conducted on 22.08.2019, not at the spot but in the office of NCB, which is violation of prescribed law as no independent witness was got associated and the whole case has been based upon the disclosure statement of the petitioner(s) which is not admissible as per law laid down by the Hon'ble Apex Court in Criminal Appeal No.152 of 2013 titled as **Toofan Singh Vs. State of Tamil Nadhu**, decided on 29.10.2020.

6. She further submits that the petitioner(s) are in custody since 26.08.2019 and they have completed the custody period of more than 3 years 8 months. She further submits that the investigation in the present case is complete; challan has been presented; charges have been framed and out of total 15 witnesses, 5 have been examined as yet and the trial is likely to take considerable time to conclude. She further submits that co-accused Supinder Singh has already been granted concession of regular bail by a co-ordinate Bench of this Court vide order dated 25.01.2021 (Annexure P-3). Therefore, petitioner(s) may be released on regular bail.

7. On the other hand, the learned counsel appearing for UOI-NCB submits that since the recovered quantity is of commercial nature, therefore, the petitioner(s) are not entitled for grant of regular bail, however, she could not deny the fact that co-accused namely Supinder Singh has been enlarged on regular bail by a co-ordinate Bench of this Court; they have completed the custody period of more than 3 years 8 months and 2 days and the trial is likely to take considerable time to conclude. She also submits that petitioner Gurmeet

Singh is involved in one more case, however, he is on bail.

8. I have heard learned counsel for the parties and perused the record.

9. In view of the custody period undergone by the petitioner(s), it is apposite to refer to a few judgments of Hon'ble Supreme Court in this regard wherein Hon'ble Supreme Court has granted the concession of bail solely on ground of long custody :-

Case Number	Date of Decision	Title of case	Period which the accused had undergone when granted bail by Hon'ble Supreme Court
Criminal Appeal No.245/2020	07.02.2020	Chitta Biswas @ Subhas Vs. the State of West Bengal	1 year and 7 months
Criminal Appeal No.668/2020	12.10.2020	Amit Singh Moni Vs. State of Himachal Pradesh	2 years and 7 months
Special Leave to Appeal (Crl.) No.5187 of 2021	10.11.2021	Kulwant Singh Vs. The State of Punjab	More than 2 years
Special Leave to Appeal (Crl.) No.5769/2022	01.08.2022	Nitish Adhikary @ Bapan Vs. the State of West Bengal	1 year and 7 months
Special Leave to Appeal (Crl.) No.4173 of 2022	04.08.2022	Shariful Islam @ Sarif Vs. the State of West Bengal	1 year and 6 months
Criminal Appeal No.1169 of 2022	05.08.2022	Gopal Krishna Patra @ Gopalrusma Vs. Union of India	2 years 1 month and 17 days
Special Leave to Appeal (Crl.) No.5530-2022	22.08.2022	Mohammad Salman Hanif Shaikh Vs. the State of Gurjarat	About 2 years
Special Leave to Appeal (Crl.) No.7840 of 2022	31.10.2022	Shahjad Vs. The State of Uttar Pradesh	About 2 years

10. Keeping in view the custody of the petitioner(s), which is 03 years 08 months and 02 days; co-accused has already been granted concession of regular bail vide order dated 25.01.2021; investigation is complete; challan has been presented; charges have been framed and out of 15 prosecution witnesses,

only 5 prosecution witnesses have been examined as yet and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner(s) are ordered to be released on regular bail during trial on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner(s) shall remain bound by the following conditions: -

- (i) The petitioner(s) shall not misuse the liberty granted.
- (ii) The petitioner(s) shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner(s) shall not absent himself on any date before the trial.
- (iv) The petitioner(s) shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner(s) shall deposit their passport, if any with the trial Court.
- (vi) The petitioner(s) shall give their cellphone numbers to the police authorities and shall not change their cell-phone numbers without permission of the trial Court.
- (vii) The petitioner(s) shall not in any manner try to delay the trial.

11. In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move an application for cancellation of bail of the petitioner(s).

12. Accordingly, both the petitions stand disposed of.

26.04.2023

Parveen kumar

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned :Yes/No

Whether reportable :Yes/No