

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-25303-2023 (O&M)  
Date of Decision: 13.07.2023

(I)  
**Navjot Singh @ Nanna**

....Petitioner(s)

Versus

**State of Punjab**

.....Respondent(s)

CRM-M-10168-2023(O&M)

(II)  
**Parkash Singh @ Baggar**

....Petitioner(s)

Versus

**State of Punjab**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. P.S. Sekhon, Advocate, for the petitioners.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

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**JASGURPREET SINGH PURI, J. (Oral)**

1. Both the petitions are taken up together for final disposal with the consent of learned counsel for the parties since both petitions arise out of the same FIR and the prayer in both the cases is for the grant of regular bail.

2. Both the petitions have been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioners in

FIR No. 212 dated 20.12.2020, under Sections 15 and 25 of NDPS Act, registered at Police Station Sadar Khanna (Police District Khanna), District Ludhiana.

3. Mr. P.S. Sekhon, learned counsel appearing on behalf of the petitioners in both the cases submitted that it is a case where as per the allegations, the petitioner namely Navjot Singh @ Nanna, co-accused Amarjeet and co-accused Harmanpreet Singh @ Gaggi were travelling in a truck and they were apprehended by the police party and there had been an alleged recovery of 750 kgs. of poppy husk which although falls in the category of commercial quantity under the NDPS Act but it is a case where the petitioner has been falsely implicated in the present case and the petitioner is not involved in any other case and has got clean antecedents. He has brought to the notice of this Court that a similarly situated co-accused namely Amarjit Singh who is exactly at parity with the present petitioner has been extended the benefit of regular bail by this Court in CRM-M-1557-2023 on 12.04.2023 vide Annexure P-4 and while referring to the aforesaid order, he submitted that even till date the status of the trial remains the same. While referring to the aforesaid order, he submitted that charges in the present case were framed on 10.03.2022 which is more than 1 year and 4 months ago and till date no prosecution witness has been examined except for one SHO who has not been fully examined till date but he has been examined only in chief. He submitted that although the expression 'DSP' has figured in the aforesaid order passed pertaining to the co-accused, namely, Amarjit Singh but in fact it is the SHO who has been examined and not the DSP and has clarified the position in this regard. The aforesaid position has

not been disputed by the learned State counsel. Learned counsel for the petitioners has further submitted that in fact the matter has been adjourned for 14 times by the learned trial Court and rather the prosecution witnesses were summoned at initial stages and for a number of times the bailable warrants were issued against the police officials and even twice non-bailable warrants were also issued against them but despite issuance of non-bailable warrants, they did not appear which clearly establishes that in the present case the petitioners were falsely implicated.

4. Learned counsel submitted that the petitioner is in custody for 2 ½ years and the trial is not progressing at all and it is because of the non-appearance and the non-deposition made by the prosecution witnesses who are none other but the police officials who had set the criminal law into motion and that was the precise reason on the basis of which the other co-accused, namely, Amarjit Singh has been granted regular bail by this Court. He has also referred to a judgment of the Hon'ble Supreme Court in *Satender Kumar Antil Versus Central Bureau of Investigation and another* [2022 (10) SCC 51] and also a latest judgment of the Hon'ble Supreme Court in *Mohd. Muslim @ Hussain Versus State (NCT of Delhi)* [2023 AIR (SC) 1648] and contended that in the aforesaid judgments also it was observed that the petitioner was entitled for the grant of bail and his case was not hit by the bar contained under Section 37 of the NDPS Act. He submitted that so far as the petitioner namely Navjot Singh @ Nanna is concerned, he is exactly at parity with the aforesaid co-accused namely Amarjit Singh and therefore, he may be considered for the grant of regular bail.

5. He further submitted that so far as the petitioner, namely, Parkash

Singh @ Baggar is concerned, he is rather at better footing in view of the fact that the name of the petitioner Parkash Singh @ Baggar was nominated on the basis of a disclosure statement of the co-accused namely, Navjot Singh @ Nanna and Amarjit Singh and even as per the prosecution, he was not present in the truck and there is no other material available with the prosecution to connect the petitioner Parkash Singh @ Baggar with the alleged offence except for the disclosure which is otherwise not admissible in evidence and has also referred a judgment of the Hon'ble Supreme Court in *Tofan Singh V/s. State of Tamil Nadu' [2021 (1) RCR (Criminal) 1]*. He submitted that however from the petitioner Parkash Singh @ Baggar there has been a recovery of only 5 kgs. of poppy husk which is a very small quantity and therefore, it cannot become a ground for denial of bail to the petitioner Parkash Singh @ Baggar. He further submitted that the only difference so far as the petitioner Parkash Singh @ Baggar is concerned that he was earlier involved in one case under the NDPS Act in which he stands convicted and petitioner Parkash Singh @ Baggar is in custody for 2 ½ years. He submitted that both the petitioners deserve the concession of regular bail not only because of the reason that the other co-accused namely Amarjit Singh who is at parity with the petitioners has been granted bail but also considering the long custody of the petitioners which is 2 ½ years and the trial is not progressing at all.

6. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab has submitted that so far as the custody period of the petitioners is concerned, the same is correct. He further submitted that so far as the question of parity of the petitioner namely Navjot Singh @ Nanna is concerned, he is exactly at parity with the other co-accused, namely, Amarjit Singh who has been granted bail by this Court but he stated that so far as the petitioner

Parkash Singh @ Baggar is concerned, he cannot be stated to be at parity with the other co-accused namely Amarjit Singh in view of the fact that the petitioner Parkash Singh @ Baggar was because involved in one other case under the NDPS Act in which he stands convicted.

7. I have heard the learned counsel for the parties.

8. It is a case where both the petitioners have faced incarceration for 2 ½ years. This Court has dealt with the same issue in detail when the other co-accused, namely, Amarjit Singh had filed a bail petition with regard to the progress of the trial vide Annexure P-4. The aforesaid co-accused was granted regular bail by this Court keeping in view the judgments of the Hon'ble Supreme Court in *Satender Kumar Antil (Supra)* and *Mohd. Muslim @ Hussain (Supra)* and also the custody of the co-accused. The petitioner namely Navjot Singh @ Nanna in the present case is exactly at parity with the aforesaid co-accused namely Amarjit Singh. The parity has not been denied by the learned State counsel. So far as the other petitioner Parkash Singh @ Baggar is concerned, the factum of parity has been denied by the learned State counsel on the ground that he has been earlier convicted in one case under the NDPS Act. However, this Court is of the view that considering the facts and circumstances and the mere fact that the petitioner Parkash Singh @ Baggar was convicted in one case could not become a ground for denial of bail to the aforesaid petitioner Parkash Singh @ Baggar especially in view of the reasons pertaining to the delayed trial in the present case. In the present case, the charges were framed on 10.03.2022 and it is almost 1 year and 4 months but no prosecution witness has been examined except for one SHO who has been examined in chief only. Repeatedailable and non-ailable warrants have been issued against the police officials who are none other but the persons

who had set the criminal law into motion and no justification has come forth from the learned State counsel as to why they abstained themselves from deposing before the Court. The ratio of the judgments of the Hon'ble Supreme Court in *Satender Kumar Antil (Supra)* and *Mohd. Muslim @ Hussain (Supra)* are squarely applicable in the present case and the bar contained under Section 37 of the NDPS Act will not apply to both the petitioners.

9. In view of the above, both the petitions are allowed. Both the petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petitions only.

13.07.2023

rakesh

(JASGURPREET SINGH PURI)  
JUDGE

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