

**210-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-37535-2021
Date of decision: 25.01.2023

RinkeshPetitioner

versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Rajesh Lamba, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J.

This petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.439 dated 19.12.2020 under Sections 22 (c)/61 of the NDPS Act and Sections 18(A)/18(C)/27/28 of the Drugs & Cosmetics Act, 1940 registered at Police Station Saran, District Faridabad.

The case of the prosecution is that on 19.12.2020, when Inspector Jagmal Singh along with other police officials were present on Jawahar Colony, they received a secret information that Pankaj and Rinkesh (the present petitioner) are likely to come along with psychotropic injections, on motorcycle bearing registration No. HR-51-BN-2310 and would go towards Sanjay Colony. On the basis of secret information, notice under Section 42 of NDPS Act sent to SHO, Police Station Saran, Faridabad, specific observation were made on the Culvert. After some time both the persons came on a motorcycle who after seeing the police party tried to ran away, but they were over powered. The driver of the motorcycle disclose his name as Rinkesh s/o Sh. Ashok Kumar, R/o H.No. 1865, Gali No.40, Sanjay Colony, P.S. Mujessar, Faridabad and the pillion rider disclose his name as Pankaj s/o Sh. Dheeraj, R/o H.No.11530, Gali

No.44, Sanjay Colony, P.S. Mujessar, Faridabad. Notice under Section 50 of NDPS Act was given to them, whereupon they desire for their search be carried out in presence of Gazetted Officer. Whereupon Tehsildar, Bdakhal, Faridabad intimated, who came and their personal search was carried out in his presence. After checking, 15 injections of Leegestic Buprenorphine (2 ml) each, 10 injections BI Norphine Buprenorphine IP (2 ml) each and 14 injections Avil Pheniramine Maleate Injection IP (10 ml) each were recovered, which were duly sealed. Samples were separated and both the accused could not produce the license and permit. Therefore, they were arrested in the case. On the basis of their tehrir, the subject FIR under Section 22C-61-85 of NDPS Act and 18C/27/18A/28 of Drugs and Cosmetics Act was lodged.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He is in custody since 19.12.2020; investigation is complete; challan has been presented; charges have been framed; out of 13 witnesses 05 have been examined and the trial case is at the stage of prosecution evidence and no other case is pending against the petitioner.

Per contra, the learned State counsel opposed the contentions made by learned counsel for the petitioner and submitted that since the quantity is commercial in nature, therefore, the petitioner is not entitled for grant of regular bail. However, he could not refute the fact that the petitioner is in custody since 19.12.2020 and out of total 13 witnesses 05 have been examined and the trial is likely to take considerable time to conclude.

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

In view of the custody period undergone by the petitioner, 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

The Supreme Court in 'Satender Antil Vs. Central Bureau of Investigation & another' AIR 2022 SC 3386 has in the case of commercial quantity enlarged the accused on regular bail keeping in view the long custody period.

Keeping in view the period of incarceration, investigation is complete; challan has been presented; charges have been framed; out of 13 witnesses 05 have been examined and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

Thus, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The present petition stands disposed off accordingly.

25.01.2023
Neha

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No