

CRM-M-33197 of 2023

2023:PHHC:125334

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

CRM-M-33197 of 2023

Date of decision: 22.09.2023

Charanjit Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Harsh Aggarwal, Advocate,
for the petitioner.

Mr. P.S. Bajwa, Addl. A.G., Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.0267 dated 29.10.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Lehra, District Sangrur.

2. As per FIR, on 29.10.2021, ASI Lakhvir Singh along with the police party were present at T point Jakhal road Lehra in the course of patrolling and checking of suspected persons. At about 2:40 P.M. ASI Lakhvir Singh received secret information that Charanjit Singh (petitioner), who is R.M.P. doctor and is practicing at village Gujran is in the habit of selling Narcotics to his customers by procuring them from Haryana. Today he is coming from the side of Jakhal on his car Make Alto bearing No.PB-34C-1464 and that if barricading is done near Nam Charcha Ghar Jakhal Road Lehra, a heavy recovery can be effected from the accused. Information being reliable, ASI Lakhvir Singh along with police party laid a barricade at

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the disclosed place. At about 3:20 P.M., the said car was seen coming. ASI gave signal to stop the car. On seeing the police party, the driver of the car became perplexed and tried to turn his car and suddenly the car stalled. Said person threw the plastic bag on the embankment of the road, out of which some strips got scattered. ASI apprehended the said person with the help of other police officials. On being asked, he disclosed his name as Charanjit Singh (petitioner) son of Avtar Singh, resident of Gujran, P.S.Dirba. On checking the plastic bag and scattered strips, 398 strips of Clovidol 100-SR containing 3980 intoxicant tablets having batch No. TVD-20289 MFG. Aug. 2020, Exp. Jul. 2023, 29 strips of Clovidol 100-SR containing 290 intoxicant tablets, having batch No. TVD-20170 MFG. Jun.2020, Exp. May 2023, 145 strips of Alprasafe containing 1450 intoxicant tablets of Alprasafe having batch no. DGTA-11190, MFG. Nov.2020, Exp.2022 and 78 strips of Alprasafe containing 780 intoxicant tablets having batch No. PCCAA-652, MFG. 07/2020, Exp. 06/2023 i.e. total 6500 intoxicant tablets were recovered.

3. Learned counsel for the petitioner submits that the petitioner, who is a licenced chemist, is innocent and has been falsely implicated in the present case as he has not committed any offence. He further submits that alleged recovery has not been effected from the car of the petitioner and nothing is to be recovered from the petitioner. He further submits that petitioner is in custody since 29.10.2021. Learned counsel further submits that investigation in the present case is complete; challan has been presented on 25.04.2022; charges have been framed on 01.08.2022 and out of total 15 prosecution witnesses, only one prosecution witnesses has been examined and the case is now fixed before the trial Court on 21.10.2023. Learned

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counsel for the petitioner has referred to a judgment of the Hon'ble Supreme Court passed in ***"Satender Kumar Antil Vs. Central Bureau of Investigation and another"***, 2022(10) SCC 51, to contend that the Hon'ble Supreme Court has discussed the serious issue with regard to repeated adjournments and its effect upon the Right to Life under Article 21 of the Constitution of India. He has also referred to a latest judgment of the Hon'ble Supreme Court passed in ***Criminal Appeal No.943 of 2023 titled as "Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)"*** decided on 28.03.2023 to contend that when there is a long delay in the trial and especially when it is not the fault of the accused and in that situation even the effect of Section 37 of the NDPS Act will be diluted in the given facts and circumstances of each and every case. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. *Per contra*, learned State counsel, while placing on record status report, has opposed the prayer for grant of regular bail to the petitioner. He further submits that the recovery effected from the petitioner is commercial in nature, therefore, he does not deserve the concession of regular bail. However, he could not dispute the fact that investigation in the present case is complete; challan has been presented on 25.04.2022; charges have been framed on 01.08.2022; out of total 15 prosecution witnesses, only one prosecution witnesses has been examined; the case is now fixed before the trial Court on 21.10.2023; he is not involved in any other case under the NDPS Act and the trial may take a considerable time to conclude.

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

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6. 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

7. The Hon’ble Supreme Court in *Special Leave to Appeal (Crl.) No.4169 of 2023 – Rabi Prakash v. The State of Odisha* decided on

13.07.2023 has held that in case of prolonged incarceration, conditional liberty will override the statutory embargo under Section 37 of the NDPS Act as the prolonged incarceration is against fundamental right guaranteed under Article 21 of the Constitution of India.

8. Keeping in view the custody of the petitioner, which is about 01 year 11 months; investigation is complete; challan has been presented; charges have been framed and out of 15 prosecution witnesses, only 01 prosecution witness has been examined and trial is likely to take a considerable time, however, 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. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions: -

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

9. In case of breach of any of the aforesaid conditions and those

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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.

10. The petition stands disposed of accordingly.

22.09.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No