

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206

CRM-M-33949-2020

Date of Decision: 12.04.2023

Gurpreet Singh @ Gopi

.... Petitioner

Versus

State of Punjab

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Ankur Jain, Advocate for the petitioner.

Mr. J.P. Ratra, Sr. DAG, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

1. Custody certificate dated 10.04.2023, filed by learned counsel for the State is taken on record.
2. Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to petitioner-Gurpreet Singh @ Gopi, in case FIR No. 58 dated 26.06.2019, under Section 21 of the NDPS Act at Police Station Bhikhiwind, District Tarn Taran.
3. According to the prosecution story, on 26.06.2019, the petitioner was apprehended by the police party while on partol duty for having kept in his conscious possession 270 grams of Herioin, without any permit or licence.
4. Learned counsel for the petitioner *inter alia* contends that petitioner has falsely been implicated in the present case, in fact, he is innocent and has no concern with the alleged recovery. He is in custody

since 26.06.2019 i.e. for more than 03 years and 09 months. Learned counsel for the petitioner has placed on record copies of *zimni* orders passed by the trial Court w.e.f. 22.12.2022 to 23.03.2023, in order to show that despite issuance of repeated production warrants the jail authorities have not produced the petitioner before the trial Court. The trial is going on at snail pace and takes long time to conclude. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on bail considering his long custody period.

5. On the other hand, learned counsel for the State vehemently opposed the prayer for grant of regular bail to the petitioner in terms of averments made in short reply dated 10.12.2020, filed by way of affidavit of Sh. Rajbir Singh, Deputy Superintendent of Police, Sub-Division Valtola, camp at Bhikhiwind, District Tarn Taran. He further contends that contraband recovered from the petitioner falls under the category of 'non-commercial quantity'. He also contends petitioner is a habitual offender and is involved in several other cases as detailed in the custody certificate already taken on record. Merely, the petitioner is in custody since long is not sufficient ground to grant him the concession of regular bail.

6. I have heard learned counsel for the parties and carefully gone through the record.

7. Admittedly, the petitioner was apprehended for having kept in his conscious possession of 270 grams of Herion which falls within the ambit of 'non-commercial quantity'. The Hon'ble Apex Court in case ***State of Punjab Vs. Baldev Singh : 1999 AIR SC 2378*** has observed

regarding Drug Addiction, Drug abuse and its effect on the society. The

Hon'ble Apex Court in Para No.3 has observed as under:-

“3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention.”

8. Moreover, the antecedents of the petitioner are also not good as he is a habitual offender and is involved in several cases as detailed in the custody certificate. It has been observed by the Hon'ble Supreme Court in ***Gudikanti Narasimhulu vs. Public Prosecutor, High Court of A.P, (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

9. Merely because the petitioner is behind the bars for more than 03 years and 09 months and trial is not likely to conclude in near future, are no grounds for grant of regular bail to the petitioner. Hon'ble Supreme Court in ***Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav (SC), Law Finder Doc Id # 69139***, has considered this issue and

observed as under:-

“13.....In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

10. Keeping in view the facts and circumstances of the case, antecedents of the petitioner and also the fact that the alleged contraband recovered falls under the category of 'commercial' quantity which attracts rigors of Section 37(1)(b) of the NDPS Act, I am of the considered view that the petitioner do not deserve the concession of regular bail.

11. Any observation made here-in-above is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

12.04.2023
rishu

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No