

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

204

CRM-M-39865-2021

Decided on : April 29, 2023

MANPREET SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. N. S. Sidhu, Advocate
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (Oral)

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail to the petitioner in case F.I.R. No.170 dated 09.12.2020, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Rampura, District Bathinda.

2. As per the FIR, on 09.12.2020, ASI- Surjeet Singh alongwith SI Bhupinder Singh, 415/Moga LC. Tinkpal Kaur, 1902/Bathinda on government vehicle bearing registration No. PB65AR 1188 Make Balero driven by C. Raju Singh, 2045/Bathinda were on patrolling in search of suspected persons and contrabands. present at near Railway Crossing Rampura Mandi then SI Kulwinder Singh, 1757 Bathinda informed ASI- Surjeet Singh on mobile phone that he was alongwith police official Jaswinder Singh, 450/Bathinda, PHG Angrej Ram, 22285, PHG, Bhola Singh, 10424 on private vehicle were going from Mandi

Rampura towards Mandi Kalan when they reached in the area of village Rampura near water channel (kassi) and the motor cycle bearing registration No. PB03K 6039 Color Red was parked left side on the path of water channel. A person taking out the contrabands from the jute bag tight with motor cycle and packing in the polythene bag. The contrabands were seen clearly and he was apprehended with the help of co-officials and asked his name and address who disclosed his name Manpreet Singh s/o Late Gurdev Singh, r/o Mehraj presently residing at village Mandi Kalan, P.S. Balainwali, District Bathinda, who was carrying intoxicants tablets and he is not empower to get search regarding contrabands. ASI- Surjeet Singh alongwith SI Bhupinder Singh, 415/Moga LC. Tinkpal Kaur, 1902/Bathinda on government vehicle bearing registration No. PB65AR 1188 make Balero driven by C. Raju Singh, 2045/Bathinda reached on the spot and tried to joined a private witness but no one was ready then ASI- Surjeet Singh met on the spot to ASI Kulwinder Singh alongwith police party then enquire the matter and asked the name and address of the apprehended person and who disclosed his name as Manpreet Singh s/o Late Gurdev Singh, r/o Mehraj Patti Soul presently residing at Mandi Kalan, intoxicant tablets were clearly seen in jute bag tight with above said motor cycle. ASI- Surjeet Singh issued notice under Section 50 of NDPS Act and informed him that intoxicants tablets in your bag clearly seen therefore, your bag be searched under the NDPS Act. But you have right if you want to search yourself and your bag before Gazetted Officer or magistrate or you be presented for search before them. Then Manpreet Singh told ASI- Surjeet Singh that the intoxicants tablets clearly seen in the bag therefore, you can search me thereafter, memo of consent prepared and same was signed by Manpreet Singh and other witnesses then ASI- Surjeet Singh search the bag tight with the motor cycle of Manpreet Singh then recovered 450 strips of tablets mark

TRAMADOL HYDROCOLORIDE TABLETS RL-DOL 100 SR bearing batch No. 20HT751 Mgf. Nov. 2020 Exp. Oct. 2022 manufactured by ORISON Pharma International Khan Mauza Ogili Kala Amb 17303 (HP) each strip containing 10/10 tablets total 4500 intoxicants tablets recovered. ASI- Surjeet Singh made a parcel of recovered tablets in the same jute bag and sealed with SS word stamp and sample is prepared separate and thereafter stamp was handed over to ASI - Kulwinder Singh, No. 1757/Bathinda. A separate memo of recovery was prepared for taking possession of the contrabands. Same was signed by the witnesses. Abovesaid Manpreet Singh could not produce any licence or permit for carrying the contrabands. Therefore, he committed offence under Section 22/61/85 of NDPS Act.

3. Status report by way of affidavit dated 21.04.2023 of Aaswant Singh, Deputy Superintendent of Police, Sub Division Rampura Phul, District Bathinda , on behalf of the respondent/State of Punjab is filed by the learned State counsel in Court today and the same is taken on record and copy thereof has been supplied to learned counsel for the petitioner.

4. Learned counsel for the petitioner *iner alia* contends that there is a complete violation of the provisions of Section 50 of Narcotic Drugs and Psychotropic Substances Act, 1985, as the requisite condition for conducting search of the person in the presence of a the Gazetted Officer / Magistrate was not complied with. He further submits that no independent witness has joined the proceedings except the police officials. He further submits that the alleged recovery has not been effected from the conscious possession of the petitioner and he has been falsely implicated in the present case. He further submits that investigation in the present case is complete; *Challan* has been presented; charges have been framed and out of total 12 prosecution witnesses only 02 witnesses

have been examined and the case is now fixed before the trial Court on 17.05.2023. He submits that petitioner is in custody for a period of 02 years and 04 months. He is not involved in any other case. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

5. *Per contra*, learned State counsel, while placing on record, custody certificate, opposes the prayer for grant of regular bail to the petitioner. However, he could not dispute that investigation in the present case is complete; *Challan* has been presented; charges have been framed; out of total 12 prosecution witnesses only 02 have have been examined and the petitioner is in custody for a period of 02 years and 04 months.

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

7. 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

8. Keeping in view the custody of the petitioner, which is 02 years 04 days; investigation is complete; challan has been presented; charges have been framed and out of 12 prosecution witnesses only 02 witnesses have 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 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.

April 29, 2023
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No