

210+103 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-43838-2022 (O&M)

Date of decision: 02.05.2023

Sunil Kumar alias Sunil Dutt alias Rinku

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Bharat Puri, Advocate
for the applicant-petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-19106-2023

Application has been filed under Section 482 Cr.PC for adding the offence under Section 25 of the NDPS Act, 1985 (later on added vide DDR No.29 dated 15.06.2022) in the head note as well as prayer clause of the main petition.

Notice in the application.

Mr. Jashanpreet Singh, DAG, Punjab accepts notice on behalf of the respondent-State and has no objection to the prayer made therein.

In view of the averments made therein, prayer is accepted subject to all just exceptions. Office to do the needful at appropriate place.

CRM stands disposed of.

Main case

1. Petitioner has filed the present petition under Section 439 Cr.PC seeking regular bail in case FIR No.226 dated 27.10.2020 under Sections 15(C)/25/29/61/85 of NDPS Act, 1985 registered at Police Station Bhogpur, District Jalandhar Rural (Annexure P-1).

2. The FIR in question has been registered against the petitioner by the police on the basis of secret information according to which the petitioner was indulged in sale of poppy husk. Today, petitioner is bringing poppy husk from Srinagar in his truck bearing registration No.PB07-AF-3658, which was concealed under boxes of apples. Considering the information to be reliable, police party laid naka and a truck bearing registration No. PB07-AF-3658 which was being driven by the petitioner was apprehended and on search, poppy husk weighing 200 kilograms was recovered from the said truck in 10 bags which were concealed under the boxes of apples. The poppy husk was taken into police possession. The petitioner was formally arrested.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. Petitioner is in custody since 27.10.2020. Learned counsel further submits that investigation in the present case is complete; challan has been presented; charges have been framed and out of total 16 prosecution witnesses only one witness has been examined and the case is now fixed before the trial Court on 04.05.2023. He further submits that petitioner is not involved in any other case under the NDPS Act. 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 custody certificate, has opposed the prayer for grant of regular bail to the petitioner by stating that the recovered contraband falls in the category of commercial category. However, he could not refute that out of total 16 prosecution witnesses only one witness has been examined till date; petitioner is in custody for the last 02 years 06 months and 02 days and the trial may take a considerable time to conclude.

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

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. Keeping in view the custody of the petitioner, which is 02 years 06 months and 02 days; investigation is complete; challan has been presented; charges have been framed and out of 16 prosecution witnesses, only one prosecution witnesses 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 misuse 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.

8. 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.

9. The petition stands disposed of accordingly.

02.05.2023
Parveen kumar

(NAMIT KUMAR)
JUDGE

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