

CRM-M-42679-2023

Date of decision: 11th October, 2023

Simarjeet Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Sekhon, Advocate for the petitioner.
Mr. Jashanpreet Singh, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This fifth petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
318	22 nd December, 2020	City Sangrur, District Sangrur	22 and 29 of NDPS Act, 1985 and Sections 379, 411, 483 of IPC, 1860

Earlier four bail petitions were not decide on merits.

2. The brief facts are that police party on 22nd December, 2022 during a routine patrolling, checked a motorcycle bearing registration No. PB13P-7505. The petitioner was driver, co-accused Manjeet Kaur pillion rider threw a plastic bag on seeing the police party and from the bag 2000 tablets containing Tramadol salt were recovered.

3. Learned counsel for the petitioner submits that petitioner is in custody since 22nd December, 2020. Recovery was made from the co-accused, petitioner gave lift to the co-accused. The contention is that there is no decent progress in the trial. He further submits State counsel

made a statement in December, 2022 before this Court in a bail matter of co-accused for making an earnest effort to conclude the prosecution evidence within five months. He relies upon the decision of Supreme Court in *Special Leave to Appeal (Crl.) No.(s) 4169 of 2023—Rabi Prakash v. The State of Odisha*, decided on 13th July, 2023, *Special Leave to Appeal (Crl.) No(s), 3221/2023 titled as Hasanujjaman and ors vs. The State of West Bengal, Special Leave to Appeal (Crl.) No.1166/2023 titled as Chet Ram @ Ram Veer vs. Union of India* decided on 15th March, 2023 and *SLP (Crl.) No. 6690 of 2022-Dheeraj Kumar Shukla v. The State of Uttar Pradesh* decided on 25th January, 2023 contending that petitioner is in custody for more than two years and trial is not progressing at a decent pace.

4. Learned State counsel has filed reply and submits that out of eighteen prosecution witnesses only six have been examined. He on instructions fairly submits that petitioner is not involved in any other case.

5. It is clarified that observations made hereinafter shall not be construed as an expression of opinion on the merits of the case.

6. As per the custody certificate dated 10th October, 2023, the petitioner is in custody for two years, nine months and twenty days and he has clean antecedents. On one hand, personal liberty of the petitioner is deprived and on the other hand, there is no progress in the trial. The Supreme Court in cases cited above in similar circumstances considering that there is violation of Article 21 of Constitution of India granted bail taking into account the custody period and the fact that trial was not

personal liberty of the petitioner, conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. The petition is allowed.
8. Since the main case has been allowed, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

11th October, 2023
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |