

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.46344 of 2022(O&M)
Date of decision: 22.02.2023

SATPAL SINGH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M No.3397 of 2023

JASVIR SINGH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM :HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Dr. Anju Sharma, Advocate for
Mr. Deepak Kohli, Advocate
for the petitioner in CRM-M No.46344 of 2022.

Mr. Navneet Jindal, Advocate
for the petitioner in CRM-M No.3397 of 2023.

Ms. Palika Monga, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

CRM No.7182 of 2023 in
CRM-M No.46344 of 2022

For the reasons mentioned in the application, the same

is allowed.

Annexures P-5 and P-6 are taken on record subject to all just exceptions.

Main case

Vide this common order CRM-M-46344 of 2022 titled Satpal Singh vs State of Haryana and CRM-M No.3397 of 2023 titled Jasvir Singh vs. State of Haryana are being disposed of.

Both the cases have arisen from one FIR i.e. FIR No.130 dated 25.12.2018 registered under Section 22(c) of the NDPS Act, Police Station Rori, District Sirsa.

Interim bail was granted to both the petitioner(s) vide order dated 10.04.2019 by the High Court till filing of the FSL report. FSL report was filed in the trial Court on 16.07.2019 thereafter, petitioner Satpal Singh surrendered before the Court on 03.09.2019. Similarly, Jasvir Singh surrendered before the trial Court on 31.08.2019. Since that date, both the petitioner(s) are in custody and have undergone 3 years 9 months and about 8 days of incarceration as on 21.02.2023 (as per custody certificate).

The allegations are that both the petitioner(s) were apprehended with 3 boxes of banned psychotropic substance containing Alprazolam tablets. Total 1440 tablets of Alprazolam were recovered. After surrendering before the trial Court, the

petitioner(s) remained unsuccessful in their previous attempts to seek regular bail before this Court.

Learned counsel for the petitioner(s) on the basis of their long custody submits that *de-hors* the quantity allegedly recovered from the petitioner(s), the custody of the petitioner(s) can be appreciated in order to grant bail to the petitioner(s) at this stage in view of **CRM-M No.24006 of 2022** titled **Sukhwinder Singh Vs. State of Punjab** decided on 19.09.2022 and **CRM-M No.9317 of 2022** titled **Chunni Ram @ Sandeep Vs. State of Haryana** decided on 22.11.2022.

Learned counsel also relies upon orders passed by the Hon'ble Apex Court in **Special Leave to Appeal (Crl) No.4173 of 2022** titled **'Shariful Islam @ Sarif vs The State of West Bengal'** decided on 04.08.2022, **Special Leave to Appeal (Crl) No.5530 of 2022** titled **'Mohammad Salman Hanif Shaikh vs The State of Gujarat'** decided on 22.08.2022 and **Criminal Appeal No.245 of 2020** titled **'Chitta Biswas @ Subhas vs The State of West Bengal'** decided on 07.02.2020, wherein concession of regular bail was granted on the basis of custody of more than 01 year and 07 months approximately.

In **Sukhwinder Singh's case (supra)**, following observations were made by the Co-ordinate Bench while

considering the regular bail of the accused:-

“Learned counsel for the petitioner has also highlighted the fact that in various cases where recovery of commercial quantity has been effected, the Supreme Court as well as this Court have granted bail/suspension of sentence. Some of the said judgments are being discussed hereinafter.

In Criminal Appeal No.965 of 2021 titled as Dheeren Kumar Jaina vs. Union of India, the Hon'ble Supreme Court in a case where allegation in the chargesheet was with respect to 120 kg of contraband i.e. “ganja”, thus, being of commercial quantity, was pleased to grant bail after setting aside the order of the High Court where the said application for grant of regular bail had been rejected.

A Co-ordinate Bench of this Court in a detailed judgment titled as Ankush Kumar @ Sonu vs. State of Punjab reported as 2018 (4) RCR (Criminal) 84, had considered the provision of Section 37 of the Act of 1985 in extenso and had granted bail in a case which involved commercial quantity. The relevant portion of the said judgment is reproduced as under: -

“xxx--xxx--xxx But, so far as second part of Section 37 (1) (b) (ii), i.e. regarding the satisfaction of the Court based on reasons to believe that the accused would not commit 'any offence' after coming out of the custody, is concerned, this Court finds that this is the

requirement which is being insisted by the State, despite the same being irrational and being incomprehensible from any material on record. As held above, this Court cannot go into the future mental state of the mind of the petitioner as to what he would be, likely, doing after getting released on bail. Therefore, if this Court cannot record a reasonable satisfaction that the petitioner is not likely to commit 'any offence' or 'offence under NDPS Act' after being released on bail, then this court, also, does not have any reasonable ground to be satisfied that the petitioner is likely to commit any offence after he is released on bail. Hence, this satisfaction of the Court in this regard is neutral qua future possible conduct of the petitioner.”

The Special Leave Petition (Criminal) Diary No.42609 of 2018 filed against the aforesaid judgment of the Co-ordinate Bench of this Court, was dismissed by the Hon'ble Supreme Court. Further, vide order dated 25.02.2021 in CRM-M-20177-2020, a Co-ordinate Bench of this Court granted regular bail to an accused who was involved in a case wherein recovery was of 3.8 kgs of “charas” (commercial quantity) after being in custody for 1 year and 7 months. The said order was upheld by the Hon'ble Supreme Court vide order dated 24.08.2021 in a Petition for

Special Leave to Appeal (Crl.) No.5852/2021
titled as “Narcotic Control Bureau vs. Vipin
Sood and another”.

The Hon'ble Supreme Court of India vide order dated 12.10.2020 passed in **Criminal Appeal No.668 of 2020** titled as **“Amit Singh @ Moni vs. Himachal Pradesh”** was pleased to grant regular bail in a case involving 3 kg and 800 grams of “charas” primarily on the ground of substantial custody and also, the fact that the trial would likely take time to conclude.

In **Criminal Appeal No.827 of 2021** titled as **“Mukarram Hussain vs. State of Rajasthan and another”**, the Hon'ble Apex Court vide judgment dated 16.8.2021 was also pleased to grant bail wherein the quantity of the contraband was commercial in nature.

A Co-ordinate Bench of this Court in **CRM-M 10343 of 2021** titled as **Ajay Kumar @ Nannu vs. State of Punjab** and other connected matters, vide Order dated 31.03.2021, after taking into consideration the stipulations of Section 37 of the Act of 1985, was pleased to grant regular bail in a case involving commercial quantity and a condition was imposed on the petitioner therein while granting the said bail and the said condition was incorporated in para 21 of the said judgment, which reads as under:

“21. However, the petitioners are granted regular bail subject to the condition that they shall not commit any offence under

the NDPS Act after their release on bail and in case of commission of any such offence by them after their release on bail, their bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.”

*Further, a Division Bench of this Court vide judgment dated 31.08.2021 passed in **CRM-8262-2021 in CRA-S-3721-SB of 2015** titled as, **Harpal Singh v. National Investigating Agency and another**, granted suspension of sentence in a case where the recovery was of commercial quantity. In the abovementioned order, the Division Bench had taken into consideration the right vested with an accused person/convict under Article 21 of the Constitution of India with regard to speedy trial. Further, the judgment of Hon'ble the Supreme Court in **State (NCT of Delhi) v. Lokesh Chadha; reported as (2021) 5 SCC 724** was also taken into account and the provisions of Section 37 of the Act of 1985 were considered and the sentence of the applicant-appellant therein was suspended after primarily considering the period of custody of the applicant-appellant therein and also the fact that the appeal was not likely to be heard in near future. Reference in the order was also made to the Division Bench judgment of this Court in **Daler Singh v. State of Punjab; 2007 (1) R.C.R. (Criminal) 316** and the view taken in **Daler Singh's case (supra)** was reiterated and followed. In the above said judgment, it was also noticed that the grounds for regular bail stand*

on a better footing than that of suspension of sentence, which is after conviction.”

Per contra learned State counsel opposes the bail on the ground that the quantity recovered from the petitioner(s) is/are commercial in nature and the petitioner(s) is/are not entitled for grant of regular bail. Accused Satpal Singh was also involved in FIR No.98 dated 28.07.2014 under Sections 21, 22, 61, 85 of NDPS Act registered at Police Station Rori, Sirsa in which he has already been acquitted by the Court of Additional Sessions Judge, Sirsa vide judgment of acquittal dated 13.01.2020. This fact is not disputed even as per stand of the State.

In view of the aforesaid status of the accused who are in custody since 03.09.2019 and 31.08.2019 after filing of the FSL report and from 27.12.2018 to 12.04.2019 before grant of interim bail by this Court, I find that the trial of the case may take some time in its culmination as out of 14 prosecution witnesses, only 3 witnesses have been examined so far and 2 of the prosecution witnesses have been summoned for 02.03.2023.

At this stage without meaning anything on merits of the case and keeping in view the custody of the petitioner(s) and stage of the trial, I deem it appropriate to enlarge the petitioner(s) on regular bail.

In view of above, both petitions are allowed. Petitioners are ordered to be released on regular bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

22.02.2023	(RAJ MOHAN SINGH)
P.Bhatt	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No