

Naib Singh alias Kala

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**Present:** Mr. B.S. Jatana, Advocate
for the petitioner.

Mr. Rozer Kumar Aggarwal, AAG, Punjab.

GURBIR SINGH, J. (ORAL)

1. The present second petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.143 dated 07.09.2021 under Sections 15 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 27 and 29 of the NDPS Act added later on) registered at Police Station Bhikhi, District Mansa (Annexure P-1).

2. Learned counsel for the petitioner submits that petitioner is in custody since 13.09.2021. As per the allegations, on the disclosure statement of co-accused, the petitioner was arrested and thereafter 120 Kg. of poppy-husk was alleged to be recovered from him. Neither any public witness was joined nor police of District Barnala was informed whereas recovery was effected at Barnala by the police of District Mansa. No information was sent to the higher authorities. During police remand, 01 kg 400 gm of opium was shown as recovered from the petitioner as per disclosure statement. It is further submitted that challan has already been presented but no witness has been

examined. He has been nominated in one more case on the basis of statement of co-accused when he was already in custody.

3. On the other hand, learned State counsel has filed the custody certificate and status report by way of affidavit of PPS, Deputy Superintendent of Police, Sub-Division, Mansa, District Mansa on behalf of the respondent-State, which is taken on record. Ld. State counsel has fairly admitted that the petitioner is in custody since 20.09.2021 and has undergone a period of 2 years and 26 days as on 15.11.2023. He further submits that the petitioner is also involved in one more case, so he is not entitled for grant of concession of bail as the alleged recovery is of commercial quantity.

4. Heard.

5. Keeping in view the fact that the police of District Mansa recovered the poppy-husk from the petitioner on the basis of disclosure statement but without joining the local police and there is no explanation for the same.

6. Keeping in view of case Nitish Adhikary @ Bapan Vs. The State of West Bengal, SLP (Crl.) No.5769 of 2022, decided on 01.08.2022; case Hasanujjaman and others Vs. The State of West Bengal, SLP (Crl.) No.3221 of 2023 decided on 04.05.2023 by Hon'ble Supreme Court and case Manpreet Singh @ Gora Vs. State of Punjab, CRM-M-45704-2023, decided on 19.09.2023 and case Ankur Kumar Mohingya Vs. State of Haryana by this Court that the petitioner is in custody for more than 2 years and no single prosecution witness has been examined so far and completion of trial will also take a long time, the petitioner deserves concession of bail.

7. Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on

regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

8. The petitioner shall also abide by the following conditions:-

- 1. The petitioner shall surrender his passport and shall not leave the country without the prior permission of the Trial Court. In case, petitioner is not having passport then affidavit to that effect be filed in the trial Court.*
- 2. The petitioner shall give his mobile number to the Trial Court and get the same registered, on which SMS shall be received from the CIS and shall not change his mobile number during pendency of the case.*
- 3. The petitioner shall not change his residence without prior intimation to the police and the trial Court.*
- 4. The petitioner shall appear before the Trial Court on each and every date of hearing.*

9. The Trial Court is at liberty to impose any other condition that it may deem appropriate. It is further clarified that in case of default of any of the conditions, then the concerned Court is competent to cancel the bail granted to the petitioner.

10. Nothing stated herein above be construed as a final expression of opinion on the merits of the case and the Trial Court would proceed independently of the observations above, which have only been made for the purpose of adjudication of the present petition for grant of regular bail.

16.11.2023
Parveen kumar

(GURBIR SINGH)
JUDGE

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