



**CRM-36172-2024 in/and
CRM-M-15810-2024**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-36172-2024 in/and
CRM-M-15810-2024
Decided on : 19.09.2024**

GURPREET SINGH @ GOPI

. . . Petitioner

Versus

STATE OF PUNJAB

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

**Present: Mr. Yashpal Thakur, Advocate and
Mr. Harwinderjit Singh Sandhu, Advocate
for the petitioner(s).**

Mr. Randhir Singh Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

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This is an application for placing on record orders granting bail to the applicant/petitioner in other cases as Annexures P-4 to P-15.

2. Heard. For the reasons mentioned in the application, the same is allowed and as Annexures P-4 to P-15 are taken on record subject to all just exceptions.

Main Case

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.58 dated 26.06.2019, registered under Sections 21, 29, 61, 85 of NDPS Act, at Police Station Bhikhiwind, District Tarn Taran.



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2. The brief facts of the present case are that on 26.06.2019, the petitioner was apprehended by the police party with 270 grams of heroin in his possession without any permit or licence.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. The petitioner is behind bars since 2019 and except one FIR, he had been nominated in all cases while he was in custody. The petitioner has already undergone an actual custody of 05 years, 02 months and 23 days and there are 13 other cases registered against him, however in five cases he is on bail, in two cases he is discharged and in one case, he has undergone the sentence.

4. Further, reliance has been placed upon the judgment passed by Hon'ble Supreme Court in "**Maulana Mohd. Amir Rashadi v. State of U.P. and another**", 2012(2) SCC 382, "**Subhabrata Roy @ Bapi Roy @ Roy Bapi V. The State of West Bengal**", SLP (Crl.) No.4637/2023, "**Mohd Muslim @ Hussain V. State (NCT OF DELHI) in SLP (Crl.) No.915 of 2023** and the judgment passed by this Court vide order dated 19.01.2022 passed in CRM-40431-2021 in CRA-D-1640-DB-2014 titled as **Rajender Singh Vs. State of Haryana**.

5. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 05 years, 02 months and 23 days. However, on pointed query regarding pendency of cases, he has stated that there are 13 other cases registered against the petitioner, however in five cases he is on bail, in two cases he is discharged and in one case, he has undergone the sentence. He further on instructions submits that the charges were framed on



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14.09.2021 and out of 10 prosecution witnesses, only four have been examined till date. However in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

6. Heard the rival submissions made by learned counsel for the parties.

7. The veracity of the allegations levelled against the petitioner shall be established during the course of the trial. Admittedly, the charges were framed on 14.09.2021 and out of 10 prosecution witnesses, only four have been examined till date. The petitioner has undergone actual custody of 05 years, 02 months and 23 days and there are 13 other cases registered against him, however in five cases he is on bail, in two cases he is discharged and in one case, he has undergone the sentence. The conclusion of the trial will take considerable time and further incarceration will not serve any purpose.

8. As regards the submission of learned State counsel that petitioner is involved in other criminal cases, the Hon'ble Supreme Court in **"Maulana Mohd. Amir Rashadi v. State of U.P. and another"**, 2012(2) SCC 382 has held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other case. The relevant portion of the said judgment is reproduced herein below :-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

9. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the



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Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in “Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”.

10. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in “Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

11. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

12. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.



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13. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

19.09.2024
Kavita

(KIRTI SINGH)
JUDGE

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