



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201

CRM-M No.21105 of 2024 (O&M)
Date of decision: 09.12.2024

Major Singh
State of Punjab

Versus

....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR J. (Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.238 dated 10.09.2022, registered under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short ‘the NDPS Act’) at Police Station Sultanpur Lodhi, District Kapurthala.
2. As per prosecution case, the allegations levelled in the FIR are that on 10.09.2022, at around 6:30 PM, a police team led by ASI Davinder Pal, while patrolling in the villages of Mothanwal, Latianwal, and Ahmedpur Channa, apprehended Major Singh (petitioner herein), after he was seen acting suspiciously and walking briskly away from his trolley on seeing the police party. Upon inquiry, Major Singh revealed that the trolley, covered by a tarpaulin, contained household items. However, a search of the trolley was conducted and four plastic bags



containing 60 kgs of poppy husk were recovered. Major Singh could not produce any license for the contraband, and the poppy husk was seized, sealed, and taken into police possession. Thereafter, the accused was arrested and the FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that the petitioner is in custody for the last 02 years, 01 month and 13 days. Learned counsel for the petitioner further submits that the investigation in the present case is complete, challan stands presented; charges have been framed and the case, before the learned trial Court is at the stage of recording the prosecution evidence, and the trial is likely to take considerable time to conclude, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

4. Learned counsel for the petitioner has referred to a judgment of the Hon'ble Supreme Court passed in "***Satender Kumar Antil Vs. Central Bureau of Investigation and another***", 2022(10) SCC 51, to contend that the Hon'ble Supreme Court has discussed the serious issue with regard to repeated adjournments and its effect upon the Right to Life under Article 21 of the Constitution of India. He has also referred to a latest judgment of the Hon'ble Supreme Court passed in ***Criminal Appeal No.943 of 2023 titled as "Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)"*** decided on 28.03.2023 to contend that when there is a long delay in the trial and especially when it is not



the fault of the accused and in that situation even the effect of Section 37 of the NDPS Act will be diluted in the given facts and circumstances of each and every case.

5. Per contra, learned State Counsel, on the basis of status report dated 08.07.2024, has opposed the prayer for grant of regular bail to the petitioner on the ground that the petitioner was found in possession of 60 Kgs of Poppy Husk, which is commercial quantity and apart from the present FIR, he is involved in one more case i.e. FIR No.107 dated 06.05.2017, registered under Section 15/61/85 of NDPS Act, Police Station Shahkot, therefore, he does not deserve the concession of regular bail. However, he could not refute that the case, before the learned trial Court is at the stage of recording the prosecution evidence and there are total 10 PWs cited in the list of witnesses; the next date of hearing is 13.12.2024; the petitioner is in custody for the last 02 years, 01 month and 13 days and the trial may take considerable time to conclude.

6. In reply, learned counsel for the petitioner submits that in the aforementioned case i.e. FIR No.107 dated 06.05.2017, the petitioner has already completed his sentence.

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

8. 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

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this regard wherein the 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

9. Without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 02 years, 01 month and 13 days; investigation is complete; challan stands presented; charges have been framed and trial is at the stage of recording the prosecution evidence and the same is likely to take considerable time to conclude, the present petition is allowed and the

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petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. 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 directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*

10. 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.

(NAMIT KUMAR)
JUDGE

09.12.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No