



CRM-M-23059-2024 (O&M)

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211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23059-2024 (O&M)

Date of decision: 28.10.2024

PAL SINGH @ KALA

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. This is the second petition under Section 439 of Cr.P.C. for grant of regular bail in case bearing FIR No. 161 dated 08.10.2022 registered under Section 22(b) of NDPS Act and Section 22(b) converted to Section 22(c) of NDPS Act at Police Station Sadar Bathinda District Bathinda Punjab.

2. As per the prosecution version, on 08.10.2022, the police party headed by ASI Kaka Singh apprehended the accused Balkaran Kaur @Charanjit Kaur and Pal Singh @ Kala (petitioner herein) on the basis of suspicion as they were searching something in a transparent polythene by keeping the same on the seat of motorcycle bearing No. PB-08-BH-1036. From the search of polythene, 70 strips of Clobedol containing 10 tablets each i.e. total 700 tablets and 28 strips of Clovedol-100 SR containing 10 tablets each i.e. total 280 tablets were recovered.

3. Learned counsel for the petitioner *inter alia* contends that this is the second petition seeking grant of regular bail to the petitioner and the first petition was dismissed as withdrawn on 20.03.2024 and the present petition has been filed as more than 02 years have passed and learned trial Court

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has failed to conclude its evidence and petitioner is not involved in any other case under the NDPS Act and case of the petitioner is covered by the ratio of laid down by Hon'ble Supreme Court in SLP(Crl.) No. 915 of 2023 titled as ***Mohd Muslim @ Hussain vs State (Nct Of Delhi) on 28 March, 2023.*** Learned counsel further contends that drill of mandatory safeguards provided under the NDPS Act have not been followed by the Investigating Agency and the petitioner has been falsely implicated in the present case and petitioner is behind the bars for more than 02 years and learned trial Court has not been able to conclude its evidence so far and the case of the petitioner is also squarely covered by the judgment of Hon'ble Supreme Court passed in SLP No. 12788-2023 titled as ***Nandlal Mondal @ Abhay Mondal Vs. The State of West Bangal***

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that there are serious and specific allegations against the petitioner. However, he could not controvert the fact that petitioner is not involved in any other case under the NDPS Act.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 10.10.2022 i.e. for 02 years and 17 days as on 27.10.2024. Out of total 16 prosecution witnesses, only 05 have been examined so far, thus the trial has not reached even the halfway mark. Culpability, if any, would be determined at the time of the trial.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial



would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

7. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

8. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- ***Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.***

9. In view of the above, the present petition is allowed and the petitioner-Pal Singh @ Kala is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

October 28, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No