



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

257-2

CRM-M No.25920 of 2023 (O&M)
Date of decision: 02.08.2024

Gurwinder Singh
State of Punjab
Versus
....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Satnam Singh Gill, Advocate
for the petitioner.
Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR J. (Oral)

1. Prayer in this 1st petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.49 dated 14.06.2022, registered under Sections 22 and 29 of the NDPS Act, at Police Station Cheema, District Sangrur.
2. As per prosecution case, the allegations levelled in the FIR are that on 14.06.2022, ASI Jasvir Singh alongwith his police party was on patrolling duty with regard to checking of suspected persons and was going from Village Tolawal towards Dharmgarh. At about 06.15 P.M. when the police party reached at drain bridge village Tolawal, they saw a car bearing registration No. UP 17-T-8125 on the left side of the drain and near the said car, two persons were seen standing with a polybag. On the basis of suspicion, ASI Jasvir Singh stopped his vehicle and alighted from the same alongwith the other police officials.



In the meanwhile, the said persons threw their polybag which they were holding. Both the said persons were nabbed by the police team. On inquiry, they disclosed their name as Gurwinder Singh @ Happy (petitioner herein) and Simranjit Singh @ Jiya. On checking the said polybag, 900 intoxicant tablets (90 strips having 10/10 tablets each) were recovered. On these allegations, the present 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 16 days.

4. Learned counsel for the petitioner further submits that the investigation in the present case is complete as challan stands presented; charges have been framed and out of total 14 prosecution witnesses, only 05 PWs have been examined so far and the trial is likely to take considerable time to conclude and, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

5. 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.

6. Per contra, learned State counsel has opposed the prayer for grant of regular bail to the petitioner on the ground that the



petitioner is a habitual offender and apart from the present FIR, he is involved in two more cases i.e. FIR No.101 dated 01.01.2020 registered under Section 22 of the NDPS Act at Police Station Bhawanigarh, District Sangrur and FIR No.237 dated 02.12.2019 registered under Sections 22, 29 of the NDPS Act, at Police Station Bhikhi, District Mansa and therefore, he does not deserve the concession of regular bail. However, he could not refute that out of total 14 prosecution witnesses, only 05 PWs have been examined till date; petitioner is in custody for the last 02 years 01 months and 16 days and the trial may take a considerable time to conclude.

7. Refuting the above contention of the learned State counsel, learned counsel for the petitioner submits that in FIR No.101 dated 01.01.2020, the petitioner has already undergone the sentence and in FIR No.237 dated 02.12.2019, he is on bail. He further relies upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi Vs. State of U.P. and another”***, 2012 (2) SCC 382, to contend 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 cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“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

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case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

9. 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 this regard wherein 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

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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

10. Without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last about 02 years 01 month and 16 days; investigation is complete; challan stands presented; charges have been framed and out of 14 PWs, only 05 PWs have been examined so far and the trial is likely to take considerable time to conclude, this petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa 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*

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holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned trial Court.

(vi) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.

11. 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

02.08.2024

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No