



205

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-25711-2024

Date of decision: 26.09.2024

Gurmukh Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Neeraj Yadav, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This second petition has been filed under Section 439 of Cr.P.C. seeking regular bail in case bearing FIR No.0129 dated 20.06.2022 under Sections 22/25 of the NDPS Act (Section 27-A/29 of the NDPS Act, added later on) (Annexure P-1) registered at Police Station Special Task Force, STF Wing, District SAS Nagar. Earlier petition was dismissed as withdrawn vide order dated 31.01.2024. With the changing circumstances, co-accused, namely, Lakshay Dhawan, Balwinder Singh alias Balwinder Kumar alias Kala and Parshant Soni, have been granted the concession of regular bail by this Court and on the ground of parity, this second petition has been filed.

Brief facts of the case as alleged are that on 26.06.2022, police party headed by ASI Surinder Singh received a secret information that one Balwinder Singh, who used to supply intoxicant tablets in the area of Amritsar City, is coming to supply the intoxicant tablets to his customer at Gali No.7, Shehnai Palace, Majitha Road, Amritsar. On the basis of said information, the police conducted *nakabandi* and apprehended accused-Balwinder Singh @



CRM-M-25711-2024

-2-

Kala. On conducting search in accordance with law, 15000 intoxicant tablets were recovered from him.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and he has not been named in the FIR (*supra*). One, Balwinder Singh was apprehended at the spot and on his disclosure statement, co-accused-Anil Kumar was nominated as an accused. Anil Kumar further made disclosure statement while in police custody accusing the present petitioner which has no evidentiary value in the eyes of law. Further, identically placed co-accused, namely, Balwinder Singh alias Balwinder Kumar alias Kala, Parshant Soni and Lakshay Dhawan were granted the concession of regular bail by this Court vide order dated 06.08.2024 passed in CRM-M-36751-2024 titled as 'Balwinder Singh alias Balwinder Kumar alias Kala', order dated 27.08.2024 titled as 'Parshant Soni Vs. State of Punjab' and order dated 06.09.2024 passed in CRM-M-42592-2024 'Lakshay Dhawan Vs. State of Punjab', respectively. He further submits that the petitioner has been in custody for the last more than two years and prosecution has failed to examine even a single witness in the last two years and delay in trial has violated the fundamental right of the petitioner enshrined under Article 21 of the Constitution of India.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that pursuant to the disclosure statement made by the petitioner, 1000 tablets were recovered and from all the accused persons, more than 6 lakh tablets were recovered. However, he could not controvert the fact that the petitioner is not involved in any other case.

**CRM-M-25711-2024****-3-**

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars for more than 02 years as on 26.09.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 22 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

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.

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.

Ergo, I am inclined to allow the prayer of the petitioner in view of

the discussion above as well as the judgment rendered by the Hon’ble Supreme Court in ‘*Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)*’ 2023 SCC Online SC 352. Accordingly, the present petition is allowed. The petitioner-Gurmukh Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of the concerned Illaqa Magistrate/Trial Court/Duty Magistrate.

The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.

Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)

JUDGE

26.09.2024

Neha

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No