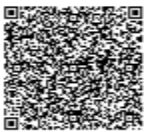


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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-29266-2024 (O&M)  
Date of decision: 03.10.2024

Shamsher Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mikhail Kad, Advocate  
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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HARPREET SINGH BRAR, J. (ORAL)

1. This is fourth petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail in case bearing FIR No.198 dated 23.09.2022 under Section 22 (Act No.61) of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Dhuri, District Sangrur.

2. The first and second petition i.e. CRM-M-35724-2023 and CRM-M-55892-2023 were dismissed as withdrawn on 31.07.2023 and 15.11.2023, respectively and third petition i.e. CRM-M-9663-2024 was

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dismissed on merits vide order dated 29.02.2024.

3. Learned counsel for the petitioner submits that this fourth petition for grant of regular bail to the petitioner has been filed on the ground that in spite of issuance of non-bailable warrants, the prosecution has failed to produce its witnesses and a period of more than two years has lapsed from registration of FIR (*supra*), the prosecution has not been able to conclude its evidence.

4. The present FIR was registered on the basis of a secret information received by ASI Hakam Singh on 23.09.2022 to the effect that Shamsher Singh (petitioner), who was habitual of selling intoxicant tablets, was going towards Ludhiana via Sangrur to Dhuri-Malerkotla on trailer bearing registration No.PB-02-CR-9815 and if a barrier is laid at Dhuri-Malerkotla road, he can be apprehended with huge quantity of intoxicant tablets. Thereafter, a trailer bearing registration No.PB-02-CR-9815 was seen coming from Dhuri side. On being signalled to stop by ASI, driver of aforesaid trailer tried to turn it back, but its engine stopped. Thereafter, he tried to run away from the spot and threw a polythene bag having strips, but the same got scattered. On being enquired, he disclosed his name as Shamsher Singh and on making the search, 45 strips, each string contained 20 tablets (total 900 tablets) of Diphenoxylate Hydrochloride and Atropine Sulphate tablets IP Lomotil were recovered.

5. Learned counsel for the petitioner, *inter alia*, contends that delay

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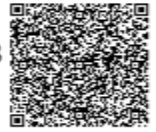


in conclusion of the trial violates the fundamental right of the petitioner enshrined under Article 21 of the Constitution of India, which guarantees speedy trial. It is further contended that the alleged contraband recovered from the petitioner is marginally higher than the commercial quantity. As such, case of the petitioner is squarely covered by the judgments of this Court passed in *Lakhvir Singh @ Lakhi Vs. State of Punjab, CRM-M-31481-2022*, *Manpreet Singh @ Koch Vs. State of Punjab, CRM-M-33808-2024* and *Anupam Chandra Vs. State of Punjab, CRM-M-45329-2024*.

6. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that commercial quantity of contraband was recovered from conscious possession of the petitioner. This is 4<sup>th</sup> petition seeking regular bail, as such, he is not entitled to any relief. Learned State counsel produces the custody certificate dated 02.10.2024 of the petitioner in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner is behind bars for the last more than 02 years and the prosecution has not concluded its evidence till date.

7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind bars since 24.09.2022 and the prosecution has examined 05 witnesses, 08 PWs have been given up and 05 witnesses are yet to be examined and delay in conclusion of trial cannot be attributed to the

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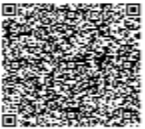
petitioner. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

8. 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.

9. 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.

10. 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***

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*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.*

11. 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 and petitioner Shamsheer Singh is ordered to be released on regular bail during trial on his furnishing bail/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court/Duty Magistrate concerned.

12. 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 learned trial Court.

[ HARPREET SINGH BRAR ]  
JUDGE

03.10.2024  
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No