

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

CRM-M-42592-2024
Date of decision: 06.09.2024

Lakshay DhawanPetitioner

Versus

State of Punjab ..Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 BNSS seeking regular bail in case bearing FIR No.129 dated 20.06.2022 under Sections 22/25/29/27-A of NDPS Act, registered at Police Station STF, SAS Nagar (Mohali).

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 @ 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



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apprehended at the spot and he has been involved in this case on the basis of disclosure statement made by Anil Kumar and, thereafter, the contraband was planted upon the petitioner. It is further submitted that the main accused who was apprehended at the spot and named in the FIR, namely, Balwinder Singh @ Balwinder Kumar @ Kala has been 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 Vs. State of Punjab' (Annexure P-20). Further, identically placed co-accused, namely, Parshant Soni was granted the concession of regular bail by this Court vide order dated 27.08.2024 passed in CRM-M-40161-2024 titled as 'Parshant Soni Vs. State of Punjab.' He further submits that the petitioner has been in custody for the last more than two years and the prosecution has failed to examine even a single witness in the last two years and conclude its evidence and the delay in trial would violate his fundamental right 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, on instructions from ASI Surinder Kumar, opposes the grant of regular bail to the petitioner on the ground that a huge quantity of more than 2,00,000 tablets was recovered along with Rs.10,000/- pursuant to the disclosure statement made by the petitioner. However, he could not controvert the fact that the petitioner is not involved in any other case and similarly situated co-accused have already been granted concession of regular bail by this Court.

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 02 years



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02 months and 01 day as on 05.09.2024. 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.

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***



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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.

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-Lakshay Dhawan 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

06.09.2024

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