

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42574-2024 (O&M)
Date of decision: 05.09.2024

RAJWINDER SINGH

...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 third petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case bearing FIR No. 196 dated 05.09.2022 registered under Section 21 of NDPS Act (Sections 22 and 29 of NDPS Act added later on) at Police Station Baghapurana District Moga Punjab.

2. FIR in present case was registered on the allegations that when HC Paramjit Singh No.776/Moga/was present at Main Chowk, Baghapurana in connection with patrolling duty and in search of suspicious persons, a secret informer came up to him and informed that one Lovejeet Singh @ Love is indulged in the business of selling Heroin and even today itself, he has come up in the area of Baghapurana for supplying Heroin to his customers and at present, he has been standing on Baghapurana-Mudki Road, near Gate at Village Alamwala and waiting for his customers for supplying Heroin. He has been wearing light brown colour pant and cream colour shirt. If raid is conducted now, then he can be apprehended alongwith huge quantity of Heroin. Information was found to be trustworthy and



believable. Thereafter, raid was conducted and the said Lovejeet Singh @ Love was arrested with contraband and FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has not been named in the FIR(supra) and nothing has been recovered from the possession of the petitioner. Petitioner has been involved in the present case only on the basis of disclosure statement of co-accused while in police custody, which has no evidentiary value in the eyes of law. The petitioner is behind the bars for two years and prosecution has failed to conclude its evidence and as such the delay in concluding the trial would violate the right of the petitioner enshrined under Article 21 of Constitution of India which ensures the right of speedy trial. It is further contended that petitioner has been involved in two more cases under NDPS Act, while he was in custody in the present case and he relies upon the judgment passed by this Court in **CRM-M-55754-2023** titled as ***Sukhwinder Singh @ Bittu Vs. State of Punjab*** decided on 15.11.2023. It is further contended that in the absence of any recovery from the petitioner, it would be a moot point to be determined by learned trial Court as to whether petitioner can be held liable for any offence under the NDPS Act.

4. Per contra, the learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that petitioner is a habitual offender and he is also involved in two other cases, however, he could not controvert the fact that these cases were registered, while the petitioner was in custody in the present case and produced the custody certificate, which is taken on record.



5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 19.09.2022 and despite passing of almost two years, prosecution has not been able to conclude its evidence as out of total 13 prosecution witnesses, only 5 have been examined so far. Thus, the trial has not even reached halfway mark. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. 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 ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

10. Accordingly, the present petition is allowed. The petitioner-Rajwinder Singh is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

11. 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.

September 05, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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