

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CRM-M-45468-2023
2024:PHHC: 016996
KULWINDER SINGH @ KINDA
.... PETITIONER
Vs.
STATE OF PUNJAB
.... RESPONDENT

2. CRM-M-45527-2023
2024:PHHC: 016998
BALWINDER SINGH @ BINDI
.... PETITIONER
Vs.
STATE OF PUNJAB
.... RESPONDENT

3. CRM-M-45542-2023
2024:PHHC: 017000
KARNAIL SINGH
.... PETITIONER
Vs.
STATE OF PUNJAB
.... RESPONDENT

Reserved on: 05.02.2024
Pronounced on: 07.02.2024

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Jashandeep Singh Sandhu, Advocate, for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

DEEPAK GUPTA, J.

In the three petitions titled above, all filed under Section 439
Cr.P.C, petitioners pray for their release on regular bail in case FIR No.63
dated 02.05.2021 under Sections 22(C) of the Narcotics Drugs and
Psychotropic Substances Act, 1985 (for short 'the NDPS Act').
2. It is the 1st petition for petitioner Balwinder Singh @ Bindi,
whereas petitioners Kulwinder Singh @ Kinda and Karnail Singh are trying
their luck for the second time.

3. Petitioner-Kulwinder Singh @ Kinda had earlier filed CRM-M-14679-2022. He has not disclosed the result thereof, but perusal of the order retrieved from the website of this High Court discloses that the said petition was dismissed as withdrawn. Similarly, petitioner-Karnail Singh had earlier filed CRM-M-43234-2022. He has also not disclosed the result thereof, but perusal of the order retrieved from the website of this High Court discloses that the said petition was also dismissed as withdrawn.

4.1 Separate status report in all the three cases has been filed. Perusal thereof would reveal that on 02.05.2021, during regular patrolling by the police party, three persons were found near a truck parked on the left side of the road a little ahead of toll plaza on Bathinda-Rampura road. One person was seen standing behind 22 tyres truck, who on seeing the police vehicle turned towards the kacha side of the road. Another person standing on the left side of the road was holding a plastic bag, whereas one more person was found sitting under the truck also having a plastic bag. All three of them were apprehended. They disclosed their names as Balwinder Singh @ Bindi (*petitioner in CRM-M-45527-2023*), Karnail Singh (*petitioner in CRM-M-45542-2023*) and Kulwinder Singh @ Kinda (*petitioner in CRM-M-45468-2023*).

4.2 After making necessary compliances as per law, search was conducted and as many as 50,000 tablet of Calvidol 100-SR were recovered, containing the salt of Tramadol Hydrochloride 100 mg. The contraband was taken into possession. All the three accused were arrested. After concluding investigation, challan has already been filed.

5. It is contended by ld. counsel for all the three petitioners that they are in custody for the last more than 2 years and 9 months; that trial is

proceeding at a snail's pace, as only five witnesses have been examined so far out of 18 cited by the prosecution; that one of the petitioners namely, Karnail Singh is not even involved in any other case and so in these circumstances, petitioners be granted regular bail.

6. Strongly opposing the bail petition, ld. State counsel has drawn attention towards the huge quantity of contraband recovered from the possession of the petitioners, which being 17 Kg. 430 grams, is more than 53 times the commercial category, which starts from 250 gram. Ld. State counsel also drawn attention towards the custody certificates to point out that petitioner-Kulwinder Singh @ Kinda is involved in one more case pertaining to NDPS Act; whereas, petitioner-Balwinder Singh @ Bindi is involved in numerous cases, out of which two pertain to NDPS Act. Ld. State counsel does not dispute the custody period of the petitioners to be more than 2 years and 9 months, but submits that in these circumstances, trial Court may be directed to expedite the trial. However, he prayed for dismissal of all the petitions.

7. I have heard submissions of both the sides and have appraised the record.

8. Huge quantity of contraband, which is more than 53 times the commercial category, has been allegedly recovered from the possession of the petitioners. Section 37 of the NDPS Act creates a bar in granting bail in such cases of recovery of contraband of commercial category, unless the court is satisfied that there are reasonable grounds to believe that accused seeking bail, is not guilty of offence and that he is not likely to commit any offence while on bail.

9. No doubt that petitioners are in custody for the last 2 years 9 months and 2 days as per the custody certificates placed on record, but 5 out of 18 witnesses cited by the prosecution have already been examined. Necessary direction can be issued to the trial Court concerned to expedite the trial, having regard to the custody period of the petitioners. However, this Court is not inclined to grant regular bail to the petitioners having regard to all the facts and circumstances.

10. Consequently, all the three petitions are hereby dismissed. At the same time, trial Court is directed to expedite the trial by giving short dates, considering the long incarceration of the petitioners.

A photocopy of this order be placed on the files of other connected cases.

07.02.2024
Vivek

(DEEPAK GUPTA)
JUDGE

- | | |
|-------------------------------|-----|
| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |