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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45329-2024 (O&M)
Date of decision: 18.09.2024

Anupam Chandra

... Petitioner

Vs.

State of Punjab

... Respondent

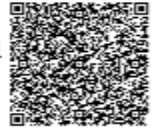
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pardeep Kumar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

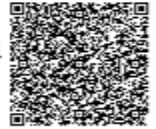
1. This is third petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (previously Section 439 of Cr.P.C.) seeking
regular bail in case bearing FIR No.129 dated 20.06.2022 under Sections 22,
25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for
short ‘NDPS Act’) (Section 27-A of NDPS Act was added later on),
registered at Police Station Special Task Force, District SAS Nagar.
2. Learned counsel for the petitioner submits that this is third



petition seeking regular bail in FIR (*supra*), as first petition i.e. CRM-M-12833-2023 was dismissed as withdrawn on 31.01.2024 (Annexure P-2) and second petition i.e. CRM-M-21839-2024 was dismissed on 17.05.2024 (Annexure P-1). It is further submitted that in spite of passing of more than two years, the prosecution has failed to examine even a single witness, as such, the petitioner has filed the present petition for grant of regular bail.

3. The present FIR was registered on the basis of secret information received on 20.06.2022 by the police party headed by ASI Surinder Singh to the effect that one Balwinder Singh used to supply intoxicant tablets in the area of Amritsar City and he is coming to supply the same to his customer at Gali No.7, Shehnai Palace, Majitha Road, Amritsar. On finding the said secret information reliable, the police laid a barrier and apprehended accused Balwinder Singh @ Kala and after conducting the search in accordance with law, 15000 intoxicant tablets were recovered from him.

4. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Parshant Soni, while in police custody, which has no evidentiary value in the eyes of law. The said co-accused has already been granted the concession of regular bail by this Court vide order dated 27.08.2024 passed in CRM-M-40161-2024 (Annexure P-12) and one

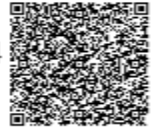


another co-accused, namely Lakshay Dhawan and main accused Balwinder Singh @ Balwinder Kumar @ Kala have also been granted the concession of regular bail by this Court vide order dated 06.09.2024 passed in CRM-M-42592-2024 (Annexure P-13) and the order dated 06.08.2024 passed in CRM-M-36751-2024 (Annexure P-14), respectively.

5. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner was apprehended and from his possession, 1,41,000 intoxicant tablets were recovered, which fall within the ambit of commercial quantity, as such, he is not entitled to any relief. The petitioner is involved in one more case under NDPS Act.

6. 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 22.07.2022 and the trial of the case has not made much progress, as out of total 22 prosecution witnesses, none has been examined so far. 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.

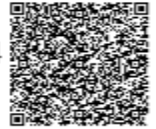
7. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated



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.

8. 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.

9. 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.

10. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

11. In view the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Anupam Chandra is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

2024:PHHC:123024



12. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall proceed without being prejudiced by observations of this Court.

18.09.2024
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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No