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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.48557 of 2023 (O&M)
Date of decision: 30.09.2024

Rajinder Singh
.....Petitioner
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Kunal Choksi, Advocate
for the petitioner.
Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR J. (Oral)

1. In compliance of the order dated 16.04.2024, status report by way of affidavit of Gurdeep Singh, Deputy Superintendent of Police, Circle Amloh, District Fatehgarh Sahib, along with custody certificate dated 29.09.2024, have been filed on behalf of respondent-State in the Court today, which are taken on record. Copies thereof have been supplied to counsel opposite.
2. Prayer in this third petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.103 dated 14.06.2022, registered under Section 22-B/61/85 of the NDPS Act (Section 22-B of the NDPS Act stands removed and Section 22-C of the NDPS Act, added later on) at Police Station Amloh, District Fatehgarh Sahib.

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3. As per prosecution case, the allegations levelled in the FIR are that on 14.06.2022, the police party while patrolling in a government vehicle bearing registration No.PB23-T-1187, was present at Bus Stand Ghutind and they saw a clean shaven young man coming on foot from village Himmatgarh, who on seeing the police party tried to turn back, however on the basis of suspicion, he was apprehended by the police party and thereafter, the Investigating Officer along with co-police officials reached at the spot and asked about his whereabouts. On which, he disclosed his name as Rajinder Singh @ Raji son of Gurmail Singh resident of village Himmatgarh, Police Station Amloh, District Fatehgarh Sahib and thereafter, recovery of 50 strips of intoxicant tablets, each strip containing 10/10 tablets i.e. total 500 intoxicant tablets of Tramadol Hydrochloride and Paracetamol, was effected and on these allegations, the impugned FIR was registered.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that the petitioner is in custody for the last 02 years 03 months and 10 days and he is not involved in any other case.

5. Learned counsel for the petitioner further submits that the investigation in the present case is complete as challan stands presented on 05.01.2023; charges have been framed on 17.04.2023 and out of total 13 prosecution witnesses, only 05 PWs have been examined so far and 02 PWs have been given up and the trial is likely to take

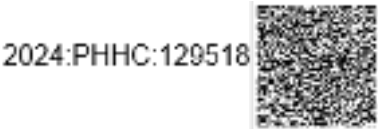
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considerable time to conclude and, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

6. Learned counsel for the petitioner has referred to a judgment of the Hon'ble Supreme Court passed in ***“Satender Kumar Antil Vs. Central Bureau of Investigation and another”***, 2022(10) SCC 51, to contend that the Hon'ble Supreme Court has discussed the serious issue with regard to repeated adjournments and its effect upon the Right to Life under Article 21 of the Constitution of India. He has also referred to a latest judgment of the Hon'ble Supreme Court passed in ***Criminal Appeal No.943 of 2023 titled as “Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)”*** decided on 28.03.2023 to contend that when there is a long delay in the trial and especially when it is not the fault of the accused and in that situation even the effect of Section 37 of the NDPS Act will be diluted in the given facts and circumstances of each and every case.

7. Per contra, learned State counsel has opposed the prayer for grant of regular bail to the petitioner on the ground that the petitioner was found in conscious possession of 500 intoxicant tablets of Tramadol Hydrochloride and Paracetamol, therefore, he does not deserve the concession of regular bail. However, he could not refute that out of total 13 prosecution witnesses, only 05 PWs have been examined till date and 02 PWs have been given; the next date of hearing, fixed before the trial Court is 01.10.2024; the petitioner is in



custody for the last 02 years 03 months and 10 days and the trial may take a considerable time to conclude.

8. I have heard learned counsel for the parties and perused the record.

9. In view of the custody period undergone by the petitioner, it is apposite to refer to a few judgments of Hon’ble Supreme Court in this regard wherein the Hon’ble Supreme Court has granted the concession of bail solely on ground of long custody :-

Case Number	Date of Decision	Title of case	Period which the accused had undergone when granted bail by Hon'ble Supreme Court
Criminal Appeal No.245/2020	07.02.2020	Chitta Biswas @ Subhas Vs. the State of West Bengal	1 year and 7 months
Criminal Appeal No.668/2020	12.10.2020	Amit Singh Moni Vs. State of Himachal Pradesh	2 years and 7 months
Special Leave to Appeal (Crl.) No.5187 of 2021	10.11.2021	Kulwant Singh Vs. The State of Punjab	More than 2 years
Special Leave to Appeal (Crl.) No.5769/2022	01.08.2022	Nitish Adhikary @ Bapan Vs. the State of West Bengal	1 year and 7 months
Special Leave to Appeal (Crl.) No.4173 of 2022	04.08.2022	Shariful Islam @ Sarif Vs. the State of West Bengal	1 year and 6 months
Criminal Appeal No.1169 of 2022	05.08.2022	Gopal Krishna Patra @ Gopalrusma Vs. Union of India	2 years 1 month and 17 days

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Special Leave to Appeal (Crl.) No.5530-2022	22.08.2022	Mohammad Salman Hanif Shaikh Vs. the State of Gurjarat	About 2 years
Special Leave to Appeal (Crl.) No.7840 of 2022	31.10.2022	Shahjad Vs. The State of Uttar Pradesh	About 2 years

10. Further the Hon’ble Supreme Court in **“Ramlal vs The State of Rajasthan”**, passed in **SLP (Crl.) No.9510 of 2024**, decided on 17.09.2024, **“Tajmul SK vs The State of West Bengal”**, passed in **SLP (Crl.) No.3047 of 2024**, decided on 23.07.2024, **“Ajay Rathore vs The State of Chhattisarh”**, passed in **SLP (Crl.) No.7470 of 2024**, decided on 30.07.2024, **“Kousar Ali Sarkar @ Mamon vs The State of West Bengal”**, passed in **SLP (Crl.) No.6785 of 2024**, decided on 30.07.2024, **“Abdur Rahim @ Rahim @ Abdul Rahim vs The State of West Bengal”**, passed in **SLP (Crl.) No.19203 of 2024**, decided on 08.07.2024, **“Apa Debnath vs The State of West Bengal”**, passed in **SLP (Crl.) No.7761 of 2024**, decided on 15.07.2024, **“Balkishan vs The State of Madhya Pradesh”**, passed in **SLP (Crl.) No.8415 of 2024**, decided on 29.07.2024, **“Deepak Dhaniram Sharma and another vs The State of Maharashtra”**, passed in **SLP (Crl.) No.6613-6614 of 2024**, decided on 08.07.2024, **“Deepoo Singh vs The State of West Bengal”**, passed in **SLP (Crl.) No.7758 of 2024**, decided on 29.07.2024, **“Mohammad Raqibuddin vs The Union of India”**, passed in **SLP (Crl.) No.2956 of 2024**, decided on 11.07.2024, **“Rina Dey and another vs The State of West Bengal”**, passed in **SLP (Crl.)**

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No.6697 of 2024, decided on 08.07.2024 and “**Ravinder Taksali vs The Union of India (NCB)**”, passed in **SLP (Crl.) No.8585 of 2024**, decided on 11.09.2024, by taking into account long custody of the accused persons, having no criminal antecedents, has granted the concession of bail.

11. Without commenting anything on merits of the case and considering the fact that the petitioner is not involved in any other case; he is in custody for the last about 02 years 03 months and 10 days; investigation is complete; challan stands presented; charges have been framed and out of 13 PWs, only 05 PWs have been examined so far and 02 PWs have been given up and the trial is likely to take considerable time to conclude, the present petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

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- (iv) The petitioner shall surrender their passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to them.*
- (vi) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*

12. In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move an application for cancellation of bail of the petitioner.

(NAMIT KUMAR)
JUDGE

30.09.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No