

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220-CRM-M-46686-2024

Date of decision: 25.09.2024

Sukhwinder Singh @ Jang

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. PS Sekhon, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

Sandeep Moudgil, J.

The petitioner has filed the present petition under Section 439 CrPC seeking grant of regular bail in case FIR No.212 dated 20.12.2020 under Sections 15/25/29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the NDPS Act), registered at Police Station Sadar Khanna, Police District Khanna, District Ludhiana.

Learned counsel for the petitioner submits that the petitioner was allegedly apprehended at the spot and a total of 755 kg poppy husk was recovered from the search of the truck which was owned by co-accused Amarjit Singh and was being driven by co-accused Navjot Singh. He further submits that the co-accused of the Petitioner i.e. owner of the truck, namely, Amarjit Singh, driver of the truck, namely, Navjot Singh @ Nanna and one other co-accused Parkash Singh @ Baggar have since been released on regular bail by this Court vide order dated 14.01.2022 passed in CRM-M-18342-2021, vide order dated 12.04.2023 passed in CRM-M-1557-2023 and vide order dated 13.07.2023 passed in CRM-M-25323-2023 and CRM-M-10168-2023 respectively.

Learned State counsel has filed custody certificate dated 24.09.2024 which is taken on record and as per which, the petitioner has undergone total sentence of 3 years 8 months and 29 days, pending trial. Besides he stands convicted in two cases of which one is under NDPS Act. He submits that the petitioner is a habitual offender under the NDPS Act and as such do not deserve regular bail.

Heard learned counsel for the parties and gone through the record.

As far as the pendency or involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

That apart, challan in the present case has been filed on 15.03.2021; investigation is complete and charges have been framed on 10.03.2022 and out of 14 PWs, only 6 have been examined and for that reason the petitioner cannot be put behind the bars for an indefinite period particularly in the light of the fact where the petitioner has been arrested only on the basis of disclosure statement

of co-accused and moreover, there is no recovery effected by the police from the person of the petitioner.

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana, 2022(2) R.C.R. (Criminal) 85*** has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

Keeping the petitioner inside the jail is clearly violative of speedy trial under Article 21 of the Constitution of India, but the same is likely to take long time being wherein it is at the initial stage after a lapse of considerable time.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail's pace inasmuch as out of total 14 PWs, only 6 PWs have been examined so far and in that eventuality, it is abundantly clear that it will take certainly long time to conclude and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgement of Apex Court in "***Dataram Singh vs. State of Uttar Pradesh and another;, (2018) 3 SCC 22***".

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

25.09.2024
V.Vishal

(Sandeep Moudgil)
Judge
Yes/No
Yes/No

- 1. Whether speaking/reasoned?
- 2. Whether reportable?