

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204-CRM-M-47180-2024

Date of decision: 26.09.2024

Gagandeep Singh @ Gagan
... Petitioner
VS.
State of Punjab
... Respondent

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Harzinder Singh, Advocate for the petitioner
Mr. Jaspal Singh Guru, AAG Punjab

Sandeep Moudgil, J.

Relief sought

The petitioner has filed the present petition under Section 439 CrPC seeking grant of regular bail in case FIR No.195 dated 04.12.2020 under Sections 22(C) of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the NDPS Act) (Section 29 of the said Act added later on) and charges framed under Section 21(C)/29 of NDPS Act, registered at Police Station Bhikhiwind, District Tarn Taran.

Facts

Prosecution story set up in the present case as per the version of the version is as under:-

“SHO PS Bhikhiwind Jai Hind Today I SI along with ASI Balwinder Singh 1184/TTN, ASI Mahal Singh 245/TTN, HC Harpal Singh 415, HC Sukhmanpreet Singh 859/TTN, L/CT Amarjit Kaur 476/TTN were patrolling in official vehicle Bolero bearing no. PB-02-AT-9618 the driver of which is HC Pardeep Kumar 665/TTN in search of bad elements were moving from CIA office Tarn Taran towards Patti, Chuslewar, Bhikhiwind etc. When the police party reached near drain bridge Bhikhiwind then one person was walking on the side of drain and was about to move to the main road and on seeing the police vehicle suddenly turned and threw a heavy polythene taking out of his right pocket of pant and sat down pretending to be peeing. Then I SI on

suspicion asked to stop the vehicle and apprehended him with the help of other accompanied police officials and asked about his name and address and he told his name as Gagandeep Singh @ Gagan son of Narinder Singh resident of Nirankari Bhawan Bhikhiwind. Before conducting his search, we tried to join the public witness then Wazir Singh son of Narain Singh resident of Baba Jeewan Singh Colony Cheharta Amritsar has joined and I SI directed the above said accused Gagandeep Singh @Gagan produced before me the polythene thrown which was opened and checked and from which loose tablets of white colour without any mark were recovered and when counted it comes out to 1000 intoxicant tablets and the same has been put in the same polythene and a separate parcel was prepared by further putting it into plastic container and I SI put my seal of SS on it and sample seal was prepared separately and was taken into police possession vide separate memo, both the sample and seal after use was handed over to ASI Balwinder Singh 1184/TT and the accused Gagandeep Singh @ Gagan by keeping 1000 intoxicant tablets in his possession has committed an offence under section 22 (C)/61/85 of NDPS ACT. Thus ruqa has been sent to police station by hand through HC Harpal Singh 415/TTN for registration of the case and the case number be informed after the registration of the FIR. Special reports be prepared and be sent to the officials and the control room be also informed. As per the directions of Hon'ble Supreme Court Inspector shinder Singh incharge CIA Tarn Taran mob no. 99151-77757 has been informed about the incident and requested to send the another investigating officer for further investigation. I SI is busy at the spot along with other companions in the area of Drain Bridge Bhikhiwind at 6.00 Pm Sd/ Satnam Singh SI CIA Tarn Taran dated 04.12.2020”

Submissions by petitioner counsel

Learned counsel for the petitioner argued that the petitioner has been falsely implicated in the present case inasmuch as the petitioner was allegedly found in conscious possession of 1000 intoxicant capsules and he is in custody since 04.12.2020 and thereafter released on 27.01.2021 but

subsequently re-arrested on 11.04.2022 and as per the chemical examiner report, the salt in the tablets were found to be Tamadol Hydrochloride and if calculations are made on the basis of FSL report, the said salt in 1000 tablets came to be 330 grams which is marginally above the commercial quantity.

State's Contention

Learned State counsel has filed custody certificate dated 25.09.2024 which is taken on record and as per which, the petitioner has undergone total sentence of 3 years 3 months and 3 days, pending trial. Besides, there is one pending criminal case against the petitioner whereas in three other cases, production warrants have been issued under him.

Analysis

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 31.05.2021; investigation is complete and charges have been framed on 29.03.2022 and out of 10 PWs, only 2 PWs 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 that 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.

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 10 PWs, only 2 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”.

Decision

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.

It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

26.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

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

Yes/No
Yes/No