

CRM-M-55518-2023
Date of decision: 24.01.2024

Jagdeep Singh

Versus

Union of India ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagdeep Singh Chahal, Advocate
for the petitioner.

Ms. Puneeta Sethi, Senior Panel Counsel
for the respondent-UOI.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.34 dated 02.05.2021 under Sections 8/15/25/28/29/60 of the NDPS Act registered at Police Station Narcotic Bureau, Chandigarh.

Learned counsel for the petitioner *inter alia* contends that the mandatory safeguards as provided under the NDPS Act has not been followed. The statement of the petitioner has been recorded in hindi, whereas, the petitioner is not conversant with the hindi language, as such, Investigating Officer has merely completed the formalities without following the drill of the mandatory provisions. The entire case of the prosecution hinges upon the statement recorded by the petitioner under Section 67 of the NDPS Act

which has no evidentiary value in the eyes of law. He further submits that the

petitioner is behind the bars since 02.05.2021 and the trial of the case is progressing at the snail's pace. Reliance in this regard is placed on the judgments of the Hon'ble Supreme Court in 'Nitish Adhikary @ Bapan Vs. State of West Bengal' Special Leave to Appeal (Crl.) No. 5969 of 2022 decided on 01.08.2022, 'Chitta Biswas @ Subhash Vs. The State of West Bengal' Criminal Appeal No.245/2020 decided on 07.02.2020, 'Amit Singh Moni Vs. State of Himachal Pradesh' Criminal Appeal No.668/2020 decided on 12.10.2020, 'Kulwant Singh Vs. The State of Punjab' Special Leave to Appeal (Crl.) No.5187 of 2021 decided on 10.11.2021, 'Shariful Islam @ Sarif Vs. The State of West Bengal' Special Leave to Appeal (Crl.) No.4173 of 2022 decided on 04.08.2022, 'Gopal Krishna Patra @ Gopalrusma Vs. Union of India' Criminal Appeal No.1169 of 2022 decided on 05.08.2022, 'Mohammad Salman Hanif Shaikh Vs. The State of Gujarat' Special Leave to Appeal (Crl.) No.5530 of 2022 decided on 22.08.2022 and 'Shahjad Vs. The State of Uttar Pradesh' Special Leave to Appeal (Crl.) No.7840 of 2022 decided on 31.10.2022.

Per contra, the learned senior panel counsel appearing for Union of India has filed the custody certificate which is taken on record and opposes the grant of regular bail to the petitioner on the ground that huge recovery of 526 kg of poppy husk was recovered on 02.05.2021 and thereafter, on 17.05.2021, 1.850 kgs of opium was recovered from the truck at the instance of the petitioner. As such, the conscious possession of the petitioner on the recovered contraband is duly established. She further submits that the petitioner is involved in one more case under the NDPS Act i.e. FIR No.132 dated 13.05.2019 under Section 15 of the NDPS Act registered at Police Station

Bhawanigarh, charges have been framed on 03.07.2023 and the prosecution is taking all efforts to expeditiously conclude the trial of the case.

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.

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.

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 decisions:- **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**

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has already undergone the custody for the period of 02 years 08 months and 24 days as on 24.01.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed on 03.07.2023 and trial of the case has not made much progress as only 01 out of 14 prosecution witnesses have been examined so far. As such, the trial of the case has not even reached halfway mark. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and another' 2020 (1) R.C.R. (Criminal 831) and 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

Keeping in view the facts and circumstances of the case and the fact that the likelihood of trial being prolonged, the present petition is allowed. The petitioner-Jagdeep Singh is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Trial Court/Chief Judicial Magistrate/Duty Magistrate.

The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.

CRM-M-55518-2023

-5-

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

(HARPREET SINGH BRAR)
JUDGE

24.01.2024
Neha

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