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208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51605-2024 (O&M)

Date of decision: 24.10.2024

ARUNDEEP SINGH @ HARRY

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. The petitioner is seeking grant of regular bail in case bearing FIR No. 161 dated 20.07.2022 registered under Sections 21(c), 25 of NDPS Act 1985 at Police Station Special Task Force, District STF Wing.

2. The FIR(supra) was lodged against the petitioner on the basis of secret information received by SI Harpal Singh by name of the petitioner and he was apprehended along with his Innova vehicle bearing registration No. DL-4-CAE-9359. During his search in the present of DSP, 280 grams of Heroin was recovered from his right pocket of his jean. More than 250 grams of heroin falls under the ambit of commercial quantity. Here, in this case, the alleged recovery is of 280 grams of Heroin which falls under the ambit of commercial quantity. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that this is the fifth petition seeking grant of regular bail to the petitioner. Fourth petition seeking grant of regular bail was dismissed as withdrawn on 20.02.2024. Now the petitioner has undergone total custody of more than 02 years and 03 months and his case is covered under the judgment of Hon'ble Supreme Court passed



in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others 2012(2)**

SCC 382. Learned counsel further contends that mandatory safeguards provided under the NDPS Act have not been followed and further no independent witness had been joined by the Investigating Officer at the time of alleged recovery and the petitioner is not involved in any other case under the NDPS Act since the last 10 years and in the earlier cases under the NDPS Act, he has already completed his sentence. The right to speedy trial is constitutional right and delay in conclusion of trial cannot be attributable to the petitioner as he is behind the bars and in spite of passing of more than two year, prosecution has failed to conclude its evidence and only 04 PWs have been examined till date.

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that petitioner was found in illegal possession of contraband which falls under the ambit of commercial quantity and further the petitioner is a habitual offender and involved in one more FIR for the offences punishable under Sections 379 and 411 of Indian Penal Code and earlier also he was convicted under the provisions of NDPS Act.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 20.07.2022 i.e. for 02 years and 03 months as on 24.10.2024. Out of total 14 prosecution witnesses, only 04 have been examined so far, thus, conclusion of trial has not reached even the halfway mark. Culpability, if any, would be determined at the time of the trial.



6. 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.

7. 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.

8. 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.

9. In view of the ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831

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SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

10. In view of the above, the present petition is allowed and the petitioner-Arundeeep Singh @ Harry is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

11. 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.

October 24, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No