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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56642-2024
Date of decision : 20.11.2024

BALWINDER SINGH @ BINDAPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jashandeep S. Sandhu, Advocate
for the petitioner.

Ms. Jasleen Kaur Sidhu, DAG, Punjab.

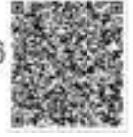
PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 483 of BNSS of 2023 for grant of regular bail to the petitioner in case F.I.R. No.15 dated 27.04.2023 registered for the offences punishable under Sections 15(c), 25, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station SSOC, Fazilka, District Fazilka, Punjab.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. As per the case of the prosecution, a secret information was received against five persons namely Balwinder Singh @ Binda s/o Karam

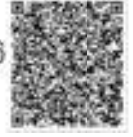
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Singh (present petitioner), Baljit Singh s/o Joginder Singh, Bhinder Singh s/o Basant Singh, Inderjit Singh @ Inder s/o Buta Singh and Gurjit Singh @ Guri s/o Mahinder Singh regarding them indulging in smuggling of *poppy husk* from Rajasthan. A naka was laid. An *i20* car was apprehended which was being driven by the present petitioner Balwinder Singh @ Binda. However, admittedly no recovery was made from the car. Thereafter, a truck was also apprehended which was being driven by Baljit Singh s/o Joginder Singh. The case of the prosecution is that the truck carrying contraband was being escorted by *i20* car which was driven by the petitioner.

4. Counsel for the petitioner submits that the Baljeet Singh @ Baljit Singh who was driving the truck already stands admitted to regular bail by this Court vide order dated 8th of November, 2024 passed in CRM- M No.54643 of 2024. He further submits that the person accompanying the petitioner in *i20* car namely Gurjeet Singh @ Guri also stands admitted to regular bail vide order dated 4th of November, 2024 passed in CRM-M- 59672-2023. Thus, he claims parity. He further submits that the trial is not likely to conclude in the near future as the same is proceeding at snail's pace. Despite the fact that the charges were framed way back on 14th of November, 2023 i.e. more than a year back, by now only 5 out of 20 cited

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witnesses could be examined. The petitioner is behind bars for more than 1 year, 6 months and 19 days.

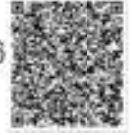
5. The aforesaid factual assertions are not disputed by the counsel representing the State. However, she submits that it is a case wherein huge quantity of *poppy husk* has been recovered from the truck.

6. I have heard counsel for the parties and have gone through records of the case.

7. Co-ordinate Bench while granting regular bail to the driver of the truck namely Baljeet Singh @ Baljit Singh observed as under :

“6. Hon'ble the Supreme Court in the case of **Dheeraj Kumar Shukla vs. The State of Uttar Pradesh**, SLP (Criminal) No.6690/2022 decided on 25.01.2023 observed that in case of long custody period, involving quantity recovered to be of commercial nature, where the trial is yet to commence, though charges had been framed, the condition of Section 37 of NDPS Act can be dispensed with. In the case of **Bhupender Singh vs. Narcotic Control Bureau** (2022) 2 RCR (Cr.) 706, the Division Bench of this Court observed with regard to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and rigors of Section 37 of NDPS Act. Similarly, in the case of **Shariful Islam @ Sarif vs. The State of West Bengal** SLP (Cr.) No.4173/2022, decided on 04.08.2022, Hon'ble the Supreme Court granted bail to the petitioner in a case of recovery of commercial quantity of contraband, considering incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in the near future. In the case of **Munasi Masih vs. State of Punjab**, CRM-M-31504-2022, decided on 06.02.2023, this Court granted bail to a first offender

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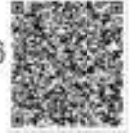
from whom commercial quantity of contraband had been recovered and only 2 out of 13 PWs have been examined, by observing that in view of delayed trial, the rigors of Section 37 of NDPS Act can be diluted to an extent and the petitioner can be granted bail, keeping in mind the right to a speedy trial as envisaged Article 21 of the Constitution of India.

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 1 year, 6 months and 7 days; not involved in any other case; co-accused has been granted bail; charges were framed on 14.11.2023, however, only 5, out of 20 prosecution witnesses, have yet been examined; the trial is likely to take a considerable time, thus further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 of NDPS Act can be diluted bearing in mind the right to a speedy trial, thus, the present petition for grant of regular bail deserves to be allowed.

8. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.

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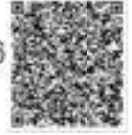
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

9. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

10. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.”

8. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner and granting him parity *viz-a-viz*

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Baljeet Singh @ Baljit Singh and Gurjeet Singh @ Guri, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. 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 mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cellphone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

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10. 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 cancellation of bail of the petitioner.
11. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

November 20, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No