

CRM-M-62205-2024
Date of decision: 17.12.2024

MANMINDER SINGH GILL ALIAS MANMINDER SINGH ALIAS
MANI

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ketan Chopra, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the third petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No.306 dated 29.11.2022 registered under Sections 21/21(c)/27/29 of NDPS Act at Police Station STF, Phase-4, Mohali (Annexure P-2). The first petition was dismissed as withdrawn on 10.01.2024 and second petition was dismissed as withdrawn on 01.07.2024.

2. The brief facts of the prosecution case are that on 29.11.2022, a special informer informed Inspector Harbans Singh separately that three persons namely, Vikas Gupta *alias* Bunty son of Baljinderpal Gupta, Gurpreet Singh *alias* Preet son of Late Karam Chand and Manjinder Singh *alias* Mani (petitioner herein) son of Harjit Singh have been indulging in the business of selling heroin in an illegal manner. Out of which against Vikas Gupta *alias* Bunty earlier 3/4 cases have been registered of drug smuggling and against Gurpreet Singh *alias* Preet several cases of serious crime have been registered.



All of three are also addicted to heroin. On that day, the above three have gone to Hoshiarpur side for taking heroin in a vehicle Nishan Micra bearing No. PB-10-DM-6363 color white. After some time, by taking heroin in a huge quantity, they have to go to Shimlapuri, Ludhiana. They can also go through this route or from Ladowal Bypass to Ferozepur Road via Bypass Road. If now, by erecting the *Nakabandi* on the flyover bridge of Ladowal Bypass to Ferozepur Road, checking be conducted all the three persons can be apprehended with huge quantity of heroin and vehicle Nishan Micra number as above. The information given by the special informant to Inspector Harbans Singh being reliable and authentic, with regard to information of the heroin, report u/s 42 NDPS Act was prepared separately and got aware AIG Special Task Force Ludhiana Range, through his mobile phone to their mobile phone through Whatsapp call. Petitioner along with co-accused by keeping the heroin in their possession and further supplying to their customers committed the offence under Sections 21, 29 NDPS Act and Inspector Harbans Singh by dictating the ruqa of above offence to Constable Tarlochan Singh against all the aforementioned persons by typing from Bhupinder Singh No.3461/PAP on his private laptop, by taking out the print out installed in Government vehicle Bolero with the help of Inverter and Printer, has been sent through Simratpal Singh Constable No.881/Khanna for registration of case at P.S. S.T.F. Phase-4, Mohali, District S.A.S. Nagar. Thereafter, further inquiry was conducted and the FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is behind the bars since 29.11.2022 and the prosecution has failed to conclude its evidence even after passing of more than 02 years, which has suffocated the fundamental right of the petitioner enshrined under Article 21 of



Constitution of India, which ensures his right to speedy trial. Learned counsel submits that delay in the conclusion of the trial cannot be attributed to the petitioner as he is in judicial custody. Out of total 20 witnesses cited by the prosecution, only 01 has been examined till date. Learned counsel further submits that nothing has been recovered from the conscious possession of the petitioner and the FIR (*supra*) was registered on the basis of secret information. Furthermore, it would be a moot point to be determined by learned trial Court whether it can be safely concluded that petitioner was in the conscious possession of the contraband, which was recovered from bag, lying under the co-driver seat of the car, driven by the petitioner and he is not the owner of the car. Learned counsel further submits that this is the third petition and the second petition was dismissed as withdrawn on 01.07.2024. The petitioner is not involved in any other case.

4. Learned State counsel produces custody certificate, which is taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that a huge quantity of contraband of 3.340 kgs of heroin has been recovered from the conscious possession of the petitioner and his co-accused. As such, he is not entitled to any relief. However, he could not controvert the fact that the petitioner is not involved in any other case.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars since 01.12.2022. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case has not made much progress as only 01 out of 20 prosecution witnesses has been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further



detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. Hon'ble the 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 Hon'ble Supreme Court of India 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, (2202) 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. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

10. In view of the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner-Manminder Singh Gill *alias* Manminder Singh *alias* Mani is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

11. 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 learned trial Court.

12. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned



trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

December 17, 2024
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(HARPREET SINGH BRAR)
JUDGE

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