



**235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-993-2025

Date of decision : 27.03.2025

Sandeep Kumar

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kulbir Singh Sekhon, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of filing the present second petition praying for grant of regular bail to him in case FIR No.74 dated 21.04.2021, under Sections 379-B, 397 of IPC and Section 25 of the Arms Act, 1959 (Section 411 of IPC added later on), registered at Police Station Sadar, Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. Succinctly facts of the case are that the FIR in the present was lodged on the statement of complainant Harpreet Singh son of Amritpal Singh. It was alleged that he had purchased a motorcycle No.PB-30-T-7359 about two months ago from Jagdish Singh for a consideration of Rs.1,45,000/-. He along with his friend Sanyam came to meet their friend Navdeep Singh. They after having tea when reached near the Bridge of big Canals, two unknown persons came on the motorcycle mark Platina. The driver of the motorcyclist was with the muffled face and he had an iron Kappa with him. The pillion rider who was wearing a yellow scarf was armed with revolver and as soon as he got off from the motorcycle, he pointed his revolver at them and threatened to shoot them. They were asked



to hand over the motorcycle under threat. He handed over the key of the motorcycle to them. His friend Navdeep Singh handed over his mobile phone brand Redmi and Rs.250/- he had. Request was made to take legal action against the accused. On registration of the FIR, investigation commenced. During investigation, the complicity of the petitioner was found and thus, he was arrested on 27.04.2021. He approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib praying for grant of bail. However, after hearing counsel for the parties, learned Additional Sessions Judge, declined the same vide order dated 08.11.2024. Thereafter, petitioner approached this Court by way of filing CRM-M-11040-2024 which was allowed to be dismissed as withdrawn vide order dated 06.03.2024. Hence, petitioner is before this Court by way of filing the present second petition.

3. It has been contended by counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that the petitioner was already behind bars in FIR No.255 dated 01.12.2014, under Sections 15/25/61/85 of NDPS Act, P.S. City Kotkapura wherein he was convicted and sentenced for 10 years rigorous imprisonment. He submits that petitioner was on parole from 23.02.2021 to 30.04.2021. He submits that during this period, petitioner was falsely implicated in this case by planting the fake recoveries on him. It is submitted that co-accused Gursharanjit Singh @ Sona has already been granted bail by this Court vide order dated 07.11.2024 passed in CRM-M-43910-2024. He submits that the total custody of the petitioner would be about 04 years in this case but till date, the prosecution has not been able to conclude the trial. He thus, submits that in the overall facts and circumstances of the case, petitioner deserves to be granted bail.



4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the petitioner has misused the concession of parole granted to him as he committed this offence while he was on parole. He submits that petitioner is involved in two more cases, one is under the NDPS Act wherein he was convicted and sentenced for 10 years and another is under the Good Conduct Prisoner Act. He has produced the custody certificate of the petitioner. He, on instructions, submits that out of 17 prosecution witnesses, only 04 witnesses have been examined so far.

5. After hearing counsel for the parties and perusing the record, it is apparent that petitioner was already behind bars in FIR No.255 dated 01.12.2014, under Sections 15/25/61/85 of NDPS Act, P.S. City Kotkapura at the time of occurrence of the present case. However, he was on parole during this period as reflected from the custody certificate. The incarceration suffered by the petitioner in the present case as reflected from the custody certificate is 02 years 01 month and 06 days however, he was arrested in the present case on 27.04.2021 and as he was convicted under the NDPS Act hence, his custody is counted in the present case from 20.02.2023. Petitioner though convicted under the NDPS Act however, as submitted before this Court his sentence was suspended. The other case against the petitioner is for the offence under the Good Conduct Prisoner Act in which he has already undergone the sentence. As submitted, out of 17 prosecution witnesses, only 04 witnesses have been examined till date. Needless to say that speedy trial is the fundamental right of every accused.

6. The Hon'ble Supreme Court in *Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695* has held as under:



“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

7. The Hon’ble Supreme Court in a recent decision dated 03.07.2024 in Javed gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

8. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

27.03.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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