

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

2025.PHHC.153671



CRM-M-64119-2024 (O&M)

DATE OF DECISION : 07.11.2025

JUSTINE

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Tarun Singhal, Advocate for the petitioner.

Mr. J.S.Arora, DAG Punjab.

* * *

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for grant of regular bail in case FIR No.141 dated 24.08.2022 under Sections 21C/29/61/85 of NDPS Act 1985, (Sections 31 of NDPS Act and Section 201 of IPC added later on) registered at Police Station Kartarpur, District Jalandhar Rural, Punjab.

2. Succinctly, facts of the case are that the police while patrolling on 24.08.2022 when reached near Kartarpur bus stand, they saw two young man standing. They were having kit bag with them. On suspicion, both were stopped by the police and on asking, they disclosed their names to be Ajit Kumar and Rupesh Kumar. They were suspected to be carrying some contraband in the kit bag being carried by them. The search of both the individuals and the kit bag carried by them was conducted. On conducting the search of Ajit Kumar, 500 gms of heroin was recovered, whereas from the search of left side of pocket of trouser of Rupesh Kumar, 120 gms of Ice was recovered. They failed to produce any licence regarding possession of

the same and thus, on the registration of the FIR, both were arrested. The investigation commenced and the samples were sent to FSL. During investigation, they made a disclosure statement about the petitioner for his involvement in the present case. Thus, the petitioner was also arrayed as an accused. As the petitioner was already behind the bars in FIR No. 59 dated 09.04.2019 under Sections 21/61/85 of NDPS Act registered at Police Station Bhog Pur, he was arrested in the present case on 27.08.2022. On completion of investigation, challan was presented. On framing the charges, the trial commenced. The petitioner approached the learned Special Court at Jalandhar praying for grant of regular bail. However, after hearing both the sides, the same was declined vide order dated 28.02.2024. Aggrieved, the petitioner approached this Court praying for grant of bail by way of filing CRM-M-32785-2024. The same was dismissed vide order dated 05.08.2024. Hence, the petitioner has again approached this Court praying for grant of bail by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case in a frivolous manner. Admittedly, the petitioner was already behind the bars at the time of occurrence in the present case, wherein he was facing the prosecution in FIR No. 59 dated 09.04.2019. He submits that the petitioner has been implicated in the present case only on the basis of the disclosure statement of co-accused Ajit Kumar, from whom the alleged contraband has been recovered. It is submitted that when the petitioner was admittedly behind the bars, his complicity in the present case is totally false and frivolous. He submits that though the petitioner is behind the bars in the present case since 27.08.2022. However, as he has been convicted in FIR

No. 59 dated 09.04.2019 by awarding a sentence of 12 years. Hence, his custody in the present case has been shown to be 'nil' in the custody certificate. It is submitted that the sentence of the petitioner in FIR No. 59 dated 09.04.2019 has already been suspended vide order dated 14.05.2024 in CRM-49851-2023 in CRA-D-52-2021. He thus, submits that in the facts and circumstances of the case, petitioner deserves concession of bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is a habitual offender. He submits that though the petitioner was behind the bars in FIR No. 59 dated 09.04.2019, however, his complicity was established during the investigation in the present case. He has submitted on instructions that out of total 21 prosecution witnesses, no witness has been examined till date. He submits that keeping in view the antecedents of the petitioner, no case is made out for grant of bail to the petitioner. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is inferred that petitioner has been arrayed as an accused in the present case on the basis of the disclosure statement of the co-accused. Admittedly, the petitioner was already behind the bars in FIR No. 59 dated 09.04.2019 at the time of occurrence in the present case. A perusal of the custody certificate shows his undertrial period to be 'nil'. The custody certificate has been provided by the jail authorities that his undertrial period is from 31.08.2022 till date but the same has been adjusted as per the judgment dated 17.03.2016 passed in CRM-M-21934-2015 titled as 'Tejinder Singh @ Teja vs. State of Punjab.

6. Needless to say that the speedy trial of every accused is a

fundamental right. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

7. 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.”

8. 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.

9. 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.

10. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.
11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.11.2025

Janki

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

(RAJESH BHARDWAJ)

JUDGE