

2025:PHHC:001422



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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-39108-2024
Date of Decision: 08.01.2025**

Parmatma Singh @ Bhola

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG, Punjab.

HARSH BUNGER J. (ORAL)

This is third petition filed under Section 439 of the Code of Criminal Procedure on behalf of petitioner (Parmatma Singh @ Bhola) for grant of regular bail in criminal case bearing FIR No.295 dated 13.11.2021 (Annexure P-1), under Sections 15(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the N.D.P.S. Act'), registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. The earlier two bail petitions, bearing CRM-M No.44254 of 2022 and CRM-M No.18092 of 2023, filed by the petitioner were dismissed as withdrawn vide orders dated 12.12.2022 and 19.04.2024, respectively.

3. In pursuance of advance notice served upon the respondent-State of Punjab, status report by way of affidavit of Mr. Vipin Kumar, P.P.S., Deputy Superintendent of Police, Sub Division Sultanpur Lodhi,

District Kapurthala and custody certificate dated 23.09.2024 of the petitioner have been filed on behalf of the State of Punjab; which are already on record.

4. Succinctly, the aforesaid FIR (Annexure P-1) was registered on the basis of *ruqa*, wherein it was stated that on 13.11.2021, Sub Inspector Harjeet Singh along with the police party was going from Police Station to Village Totti to Village Rampur Jagir, where they met Inspector Surjit Singh I/C, C.I.A. Staff, Kapurthala with police party, in connection with patrolling duty and search of bad elements. When they reached half a kilometer ahead of Village Sherpur Dona, they noticed that one Innova car (light golden colour) was parked on the path and there was a *katcha rasta* on left hand side, going towards fields, where a truck was also parked; in front of which, six persons were filling the sacks; and upon seeing the police party, four of the said persons fled away from the spot in their Innova car, whom Sub Inspector Harjeet Singh and Assistant Sub Inspector Gurdeep Singh already knew by their names, as Gurdit Singh @ Gittu son of Gurdeep Singh, his brother Tikka Singh son of Gurdeep Singh, Didar Singh @ Kaddu son of Darbara Singh and Parmatma Singh @ Bhola (petitioner) son of Jagir Singh; all residents of Village Sench, Police Station Sultanpur Lodhi. The said Innova car was chased by Inspector Surjit Singh and police party; and in the meanwhile, the remaining two persons also tried to flee away from the spot by starting the truck but they were apprehended by the police party. Upon enquiry, the person driving the truck disclosed his name as Gurcharan Singh son of Sukhdev Singh resident of New Chandan Nagar Kartarpur, Police Station Kartarpur, District Jalandhar and the person apprehended from the cleaner side disclosed his name as Sandeep Singh son of Bhajan Singh resident of Bhagiwala, Police Station Mehtapur, District Jalandhar.

5. Thereafter, by following the due procedure, the search of truck was conducted, whereupon eighteen bags containing *poppy husk* were recovered, which on weighing came to be 15 kilograms in each bag (in total 270 kilograms). The recovered contraband was converted into parcel and sealed; and was taken into police possession.

6. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the present case. It is submitted that the petitioner was not found in conscious possession of any psychotropic substance. It is further submitted that the petitioner is in custody since 14.04.2022. Learned counsel fairly states that petitioner is also involved in four more cases under the N.D.P.S. Act, i.e. FIR No.88 dated 25.06.2019, FIR No.193 dated 22.11.2019, FIR No.43 dated 02.04.2016 and FIR No.66 dated 14.04.2022; and one case under the Indian Penal Code, i.e. FIR No.5 dated 05.01.2020. However, it is contended that petitioner has already been granted anticipatory bail in four of the aforementioned cases, i.e. FIR No.88 dated 25.06.2019 & FIR No.193 dated 22.11.2019, vide separate orders dated 07.07.2020 passed by a co-ordinate Bench of this Court; FIR No.5 dated 05.01.2020, vide order dated 29.07.2020 passed by a co-ordinate Bench of this Court; and FIR No.43 dated 02.04.2016, vide order dated 29.07.2016 passed by the learned Judge, Special Court, Kapurthala; whereas, in case bearing FIR No.66 dated 14.04.2022, petitioner has been granted regular bail vide order dated 02.07.2022 passed by the learned Judge, Special Court, Kapurthala. Learned counsel for the petitioner has handed over the copies of aforesaid bail orders in Court today, which are taken on record, subject to all just exceptions.

6.1 Learned counsel for the petitioner submits that challan against the petitioner already stands presented on 10.05.2022 and the case is now

fixed for prosecution evidence before the trial Court for 03.02.2025; thus, the trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period. It is contended that co-accused, namely Didar Singh @ Kaddu, has already been granted regular bail by this Court vide order dated 19.04.2024 (Annexure P-4) passed in CRM-M-1310-2024. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court. It is further submitted that the petitioner is also ready to furnish security in the form of Fixed Deposit Receipt (F.D.R.) of Rs.1,00,000/- before the concerned Court, so as to ensure his presence before the Court on each and every date of hearing.

6.2 With the aforesaid submissions, learned counsel for the petitioner has prayed for grant of regular bail to the petitioner.

7. Per contra, learned State counsel opposes the prayer of petitioner for grant of regular bail on the ground of seriousness and gravity of the offences. Learned State counsel, while relying upon the status report, submits that the arrested persons, namely Gurcharan Singh and Sandeep Singh, during investigation, disclosed that they along with the petitioner (Parmatma Singh) and others had gone to Srinagar to get *poppy husk*; and later on, the petitioner and others handed over the truck loaded with *poppy husk* to them (Gurcharan Singh and Sandeep Singh). It is submitted that the recovered contraband in the instant case falls under the category of 'commercial quantity' and thus, rigors of Section 37 of the N.D.P.S. Act are attracted in this case. Learned State counsel submits that the petitioner does not have clear antecedents as he is also involved in four other cases of similar nature and one more case under the Indian Penal Code.

7.1 Although the custody period of petitioner, the stage of trial and

also the concession of regular bail to co-accused (Didar Singh @ Kaddu) are not disputed by learned State counsel, however, he submits that there is an apprehension that in the event of grant of bail, the petitioner may abscond to delay the trial. Accordingly, prayer has been made for dismissal of the present petition.

8. Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012(2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced herein below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

9. I have heard learned counsel for the parties and perused the paper book as well as custody certificate of the petitioner.

10. In the instant case, although the recovered contraband falls in the category of “Commercial Quantity”, which attracts Section 37 of the N.D.P.S. Act, however, the petitioner has already undergone actual custody for a period of approximately two years and nine months, by now. The ingredients of the offence alleged against the petitioner are yet to be proved before the trial Court by prosecution. Investigation in the case is complete, challan against the petitioner stands already presented before the trial Court on 10.05.2022 and the case is now fixed for prosecution evidence before the

trial Court for 03.02.2025; therefore, this Court has reason to believe that the trial in this case is likely to take some time to conclude.

10.1 Further, it is not disputed before this Court that co-accused namely Didar Singh @ Kaddu, has already been granted regular bail by this Court vide order dated 19.04.2024 (Annexure P-4) passed in CRM-M-1310-2024.

11. Hon'ble Apex Court in case titled ***"Dataram Singh v. State of Uttar Pradesh & Anr."***, 2018(2) RCR (Criminal) 131, has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgement that a person is believed to be innocent until found guilty.

12. Hon'ble Supreme Court in ***"Mohd. Muslim @ Hussain V. State (NCT of Delhi)"***, 2023 AIR (Supreme Court) 1648 held as under:

"19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

20. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be

proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Malik (2009) 2 SCC 624). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.”

12.1 Hon'ble Apex Court in case titled **“Umarmia Alias Mamumia v. State of Gujarat”**, (2017) 2 SCC 731, has held delay in criminal trial to be in violation of right guaranteed to an accused under Article 21 of the Constitution of India.

12.2 In **“Manoranjana Singh alias Gupta v. CBI”**, (2017) 5 SCC 218, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial.

13. Pertinently, appropriate directions can be issued for securing the attendance of the petitioner during the trial.

14. Keeping in view the aforementioned facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail, if not required in any other case, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the

petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also mark his presence before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial and in case the Station House Officer refuses to mark his presence, he is permitted to make an application before the Illaqa Magistrate, concerned.

15. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.1,00,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

16. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

17. The petition is accordingly disposed of.

18. All pending application(s), if any, shall also stand closed.

08.01.2025
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No