



210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14214-2024
Date of decision: 14.01.2025

JAGGI SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.12 dated 20.01.2022 under Sections 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") registered at Police Station City Samana, District Patiala, (Annexure P-1).

2. As per the prosecution version on 20.01.2022, the police of PS City Samana, District Patiala, in the area of Bhawanigarh Chowk, Samana, apprehended co-accused Ved Parkash with 100 kg. Chura Poppy Husk contained in a plastic bag which was being carried by him on a Canter make Eicher-2016 bearing registration No.PB-13BD-0246 and present applicant-accused Jaggi Singh (petitioner herein), who is also the owner of the said Canter, succeeded in fleeing away from the spot. So, FIR was registered. Later on petitioner-Jaggi Singh was arrested on 12.06.2023.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (*supra*) and it is admitted



position that the alleged contraband has not been recovered from the conscious possession of the petitioner, who is alleged to have fled away from the spot, as per the case set up by the prosecution. Further, the co-accused, namely, Ved Parkash, from whose conscious possession the alleged contraband was recovered has already been granted the concession of regular bail by this Court vide order dated 07.03.2024 passed in case bearing CRM-M No.64186 of 2023. Learned counsel submits that in spite of the fact that the FIR (*supra*) was registered on 20.01.2022 and almost 03 years have passed, the prosecution has failed to conclude its evidence. The petitioner is behind the bars for the last more than 18 months.

5. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that the complicity of the petitioner is at large as he is the owner of the vehicle from which, the recovery of the contraband was made. Further, the petitioner is a habitual offender as he is involved in 02 more cases under the NDPS Act and out of these two, he has already been convicted in one case. However, he could not controvert the fact that the petitioner is behind the bars since 27.06.2023 and his custody period is 01 year, 06 months and 08 days and out of 18 prosecution witnesses, only 02 have been examined till date.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 27.06.2023. The final report under Section 173 Cr.P.C. was presented before the concerned Court and subsequently, charges were framed. Currently, the trial is at the stage of prosecution witness and out of 18 witnesses cited by the prosecution, only 02 have been examined so far. The petitioner has already



undergone a period of 01 year, 06 months and 08 days of custody and the delay in conclusion of trial cannot be attributed him.

7. A two Judge bench of the Hon'ble Supreme Court in *Nandlal Mondal @ Abhay Mondal Vs. The State of West Bengal SLP (Crl.) No(s).12788/2023* released the accused on bail after completion of 18 months of custody on account of protracted trial in NDPS case involving commercial quantity of contraband. Reliance in this regard can also be placed upon the judgments rendered by the Hon'ble Supreme Court passed in *Md. Aliul Islam @ Aliul Islam @ Alius Vs. The State of West Bengal SLP (Crl.) No. 000736/2024*, *Debrata Mondal Vs. State of West Bengal SLP(Crl.) No. 14970-2023*, *Santarul Islam @ Santa Vs. The State of West Bengal SLP(Crl.) No. 13169/2023*, *Indrajit Mondal @ Piglu Vs. The State of West Bengal SLP(Crl.) No. 8512/2023*, *Narjul Islam @ Najbul Hoque Vs. The State of West Bengal SLP(Crl.) No. 14172/2023*, *Subhashri Das @ Rana @ Subhoshree Vs. The State of West Bengal SLP(Crl.) No. 15284/2023*, *Mithun Sk. & Anr. Vs. The State of West Bengal SLP (Crl.) No.016598/2023*, *SK. Nasiruddin @ Nasirddin SK. Vs. State of West Bengal SLP (Crl.) No.003402/2024*, *Indadul Shah Vs. The State of West Bengal SLP(Crl.) No. 12670/2023* , *Hanef Kharsani @ Hanef Sheikh Vs. Union of India, Ripon Seikh & Ors. Vs. State of West Bengal SLP(Crl.) No. 16663/2023*, *Moidul Sarkar Vs. The State of West Bengal SLP(Crl.) No. 15668/ 2023*, *Saniya Bibi @ Soniya Bibi Vs. The State of West Bengal SLP(Crl.) No. 2354/2024*, *Saddam Hossain Vs. State of West Bengal SLP(Crl.) No. 15496/2023*, *Bijon SK @ Golam Murselim Vs. The State of West Bengal SLP (Crl.) No. 6046/2024* and *Subhas Vs. The State of West Bengal SLP(Crl.) No. 8823/2019*.



8. Further, the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

9. A two Judge bench of the Hon'ble Supreme Court in ***Mohd. Muslim @ Hussain vs. State (NCT of Delhi) 2023 AIR SC 1648*** has held that the concept of fairness enshrined under Article 21 of the Constitution of India would trump the bar on granting bail in cases involving commercial quantity of contraband, as stipulated by Section 37 of the NDPS Act. Speaking through Justice S. Ravindra Bhat, has opined as follows:

*“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). **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.*

*21. **Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual***



is immeasurable. *Jails are overcrowded and their living conditions, more often than not, appalling.*” (emphasis added)

10. As far as the issue of the petitioner being a habitual offender is concerned, the Hon'ble Supreme Court in ***Prabhakar Tewari vs. State of U.P. 2020 (11) SCC 648*** and ***Maulana Mohd. Amir Rashadi vs. State of U.P. and another (2012) 2 SCC 382***, has categorically held that the grave and serious allegations leveled against the accused or pendency of other cases against him cannot be the only basis to refuse the prayer of bail.

11. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Jaggi Singh 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.

12. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

January 14, 2025
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |