

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-4594-2020 (O&M)
Date of Decision: 5.12.2022

Akash ... Petitioner

Versus

Union of India ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vipul Jindal, Advocate for the petitioner.

Ms. Puneeta Sethi, Standing Counsel
for the respondent/UOI.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in respect of a case registered vide NCB Crime No. 47, dated 24.9.2019, Police Station NCB Sub Zone, Amritsar District Amritsar, under Sections 8, 21, 25, 27-A, 29, 60 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. As per the case of prosecution on 24.9.2019 pursuant to receipt of secret information, a team of NCB and STF, Amrtisar raided the house of Manjit Singh situated at Prem Nagar, Meera Kot Chowk, Amritsar and recovered 5 grams of 'heroin' which he had kept concealed in a strip of black polythene in his rectum. During the course of interrogation, he disclosed that he used to procure 'heoin' from Sahil. Pursuant to receipt of said information, a raid was conducted at the house of Sahil where one young person, upon noticing

the raiding party, tried to flee but was apprehended by the police. Said person disclosed his name as Akash (brother of Sahil). The said person was carrying a bag when he was apprehended which upon checking was found to contain Indian currency of ₹ 47,000/- and 290 grams of 'heroin'.

3. The learned counsel for the petitioner submits that he has falsely been implicated in the present case pursuant to a disclosure statement made by co-accused Manjit and that apparently it is a case where the recovery had been planted upon the accused and infact the name of the petitioner was not even there in the disclosure statement of Manjit. The learned counsel has further submitted that since the raiding party had information in the shape of disclosure statement, the same was required to be sent to higher police officers in terms of Section 42 of the Act and the same not having been sent constitutes violation of the same and on account of which the petitioner would be entitled to grant of bail. It has further been submitted that since the trial is proceeding at snail's pace, the petitioner deserves to be released on bail, having being in custody for the last more than 3 years.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner was caught red-handed at the spot while in possession of a 'commercial quantity' of contraband i.e. 290 grams of 'heroin', his complicity is clearly evident. The learned State counsel has further submitted that although it was pursuant to a disclosure statement made by co-accused that the petitioner came to be nabbed by the raiding party but given the fact that the petitioner was also in possession of contraband at the time of his arrest, the case of the prosecution against him cannot be doubted. The learned State counsel has, however, informed that the petitioner, as on date, has been behind bars since the last about 3 years and 1 month and that as on

date 4 out of the cited 12 prosecution witnesses have been examined. It has also been informed that the petitioner happens to be involved in two other cases including one case under the NDPS Act.

5. This Court has considered the rival submissions.
6. Since the petitioner seeks grant of bail mainly on account of long custody, it is apposite to refer to a few judgments of Hon'ble Supreme Court in this regard wherein Hon'ble Supreme Court has granted the concession of bail solely on ground of long custody :-

Case Number	Date of Decision	Title of case	Period which the accused had undergone when granted bail by Hon'ble Supreme Court.
Criminal Appeal No. 245/2020	07.02.2020	Chitta Biswas @ Subhas Vs. the State of West Bengal	1 year and 7 months
Criminal Appeal No. 668/2020	12.10.2020	Amit Singh Moni Vs. State of Himachal Pradesh	2 years and 7 months
Special Leave to Appeal (Crl.) No. 5769/2022	01.08.2022	Nitish Adhikary @ Bapan Vs. the State of West Bengal	1 year and 7 months
Special Leave to Appeal (Crl.) No. 4173 of 2022	04.08.2022	Shariful Islam @ Sarif Vs. the State of West Bengal	1 year and 6 months
Criminal Appeal No. 1169 of 2022	05.08.2022	Gopal Krishna Patra @ Gopalrusma Vs. Union of India	2 years 1 month and 17 days
Special Leave to Appeal (Crl.) No. 5530-2022	22.08.2022	Mohammad Salman Hanif Shaikh Vs. the State of Gujarat	About 2 years
Criminal Appeal No. 2027-2022	22.11.2022	Karnail Singh Vs. The State of Odisha	1 Year and 8 months
Special Leave to Appeal (Crl.) No. 8653-2022	25.11.2022	Karim Adaldar Vs. The State of West Bengal	10 months

7. Keeping in view the totality of the facts and circumstances of the case, particularly long custody of the petitioner and also that conclusion of trial is

likely to consume time inasmuch as only 4 PWs out of the cited 12 PWs have been examined so far, the petition merits acceptance and is hereby accepted.

8. The petition, as such, is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. It is, however, directed that in case the petitioner is found to be indulging in similar offence again, the prosecution would be at liberty to move an application for cancellation of bail before this Court. The prosecution is also directed to take all necessary steps for ensuring presence of witnesses on the dates, as fixed by the trial Court for recording their statements so that the trial is concluded at the earliest.

5.12.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No