

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

CRM-M-24667-2022 (O&M)
Date of Decision:-30.11.2022

Harjinder Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Mr. Siddharth Atttri, AAG, Punjab.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.86 dated 9.8.2019, Police Station Sadar Abohar, District Fazilka under Section 15/29/61 of Narcotic Drugs & Psychotropic Substances Act.
2. The case of the prosecution, in nutshell, is that on 9.8.2019, the petitioner alongwith co-accused Harjinder Singh was found in possession of 300 kilograms of 'poppy husk'. It is the case of prosecution that the petitioner alongwith said Harjinder Singh was travelling in a truck driven by said Harjinder Singh from which the said '*poppy husk*' had been recovered.
3. Learned counsel for the petitioner submits that the petitioner was merely sitting on the front passenger seat of the truck and cannot be attributed

conscious possession of the contraband alleged to have been recovered from the rear side of the truck, wherein some other articles had also been loaded. It has further been submitted that the petitioner has been behind bars for a substantial period of 3 years, 3 months and 19 days and that since the trial is proceeding at snail's pace, the petitioner deserves the concession of regular bail. It has also been pointed out that co-accused has already been granted bail by this Court, therefore the petitioner also deserves the same concession on the ground of parity.

4. On the other hand, learned State counsel has submitted that since the petitioner was caught red handed alongwith his co-accused Harjinder Singh while in possession of 300 kilograms of 'poppy husk', no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 3 years, 3 months and 19 days. Learned State counsel has also informed that the petitioner is not involved in any other case. It has also been informed that as on date, only 5 out of the cited 15 PWs have been examined.
5. I have considered rival submissions addressed before this Court.
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

7. Keeping in view the totality of the facts and circumstances of the case particularly the long custody of the petitioner and the fact that only 5 out of the cited 15 PWs have been examined till date, the petition merits acceptance.
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.

30.11.2022

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No