

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

CRM-M-26967-2020 (O&M)  
Date of Decision:-28.9.2022

Akshay Kumar ... Petitioner

Versus

State of Punjab ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,  
assisted by SI Gurpreet Kaur.

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**GURVINDER SINGH GILL, J.** (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.0005, dated 09.01.2020 at Police Station Anaj Mandi, District Patiala, under Section 22 of the NDPS Act.
2. The case of the prosecution is that on 09.01.2020, when a police party was present near bridge in the area of Daulatpur in connection with patrolling, a Hindu gentleman was seen coming on a motor-cycle bearing registration No.PB-11-AA-5186, who after seeing the police party tried to turn back his motor-cycle, but was apprehended. It is further the case of the prosecution that upon search of the brown coloured bag, which was hanging on the handle of the motor-cycle, a white coloured plastic bag containing 1500 capsules of 'Pervorin Spas' was recovered.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case. It has further been submitted that the petitioner has been behind bars for a substantial period of 2 years, 8 months and 21 days and that since the trial is proceeding at snail's pace, the petitioner deserves the concession of regular bail.
4. Opposing the petition, the learned State counsel has submitted that since it is a case wherein the petitioner was caught red-handed while in possession of a 'commercial' quantity of contraband, no case for grant of bail is made out. The learned State counsel has not disputed the fact that the petitioner has been behind bars since the last 2 years, 8 months and 21 days and that out of the cited 14 prosecution witnesses, only 2 PWs have been examined so far. Learned State counsel has also informed that the petitioner is not involved in any other case under the NDPS Act.
5. This Court has considered 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                                                               |

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|-------------------------------------------------|------------|-------------------------------------------------------|-----------------------------|
| 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. In the present case, the petitioner has been behind bars since the last 2 years, 8 months and 21 days. Conclusion of trial is likely to consume time inasmuch as out of the cited 14 prosecution witnesses, only 2 PWs have been examined.
8. Keeping in view the totality of the facts and circumstances of the case, particularly the long custody and that the petitioner is not involved in any other case under the NDPS Act, the petition merits acceptance and is hereby accepted.
9. 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.
10. 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.

**28.9.2022**

vimal

**( Gurvinder Singh Gill )  
Judge**Whether speaking /reasoned  
Whether ReportableYes / No  
Yes / No