

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

CRM-M-32096-2022 (O&M)
Date of Decision:-10.10.2022

Manmohan Singh @ Mohna

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Arjun Veer Sharma, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Balraj Singh.

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.274, dated 23.10.2018, Police Station City Jagraon, District Ludhiana, under Sections 21/25 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. The allegations in the FIR are that during the course of patrolling, the police party came across three persons who were riding a motor-cycle and who upon noticing the police party tried to turn back the motorcycle. On the basis of suspicion, the said three persons were apprehended. The driver of the motor-cycle disclosed his name as Manmohan Singh @ Mohna (petitioner); the person sitting in the middle disclosed his name as Parmanand @ Nandu

and the person sitting on the rear disclosed his name as Ajay Kumar @ Kallu.

It is further the case of the prosecution that upon search of the said persons and upon search of the motor-cycle, 300 grams of 'heroin' was recovered underneath the seat of the motor-cycle.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case like he has been implicated in another about 30 cases. It has been submitted that the petitioner was initially involved in FIR No.159 dated 12.9.2011, Police Station City Jagraon, under Sections 15/61/85 of NDPS Act in which he was acquitted vide judgment dated 11.7.2013 (Annexure P-1) passed by learned Special Court, Ludhiana. Subsequent to his acquittal, the petitioner moved an application under Section 58 of Narcotic Drugs and Psychotropic Substances Act so as to prosecute the police official for having falsely implicated him in FIR No.159, dated 12.9.2011. It has been submitted that ever since institution of the said application under Section 58 of NDPS Act, the police officials have been all out to implicate the petitioner falsely and have implicated him in as many as 33 different cases most of which are based on disclosure statements.
4. Opposing the petition, learned State counsel, upon instructions from ASI Balraj Singh, has informed that since the petitioner is a habitual offender having been involved in as many as 33 other cases, no case for grant of bail is made out.
5. It is not in dispute that out of the said 33 cases, the petitioners stands involved in one more case under NDPS Act, wherein he already stands acquitted. Learned State counsel has informed that the petitioner as on date

has been behind bars since the last 3 years, 11 months and 21 days and 3 PWs out of the cited 13 PWs have been examined.

6. This Court has considered the rival submissions.
7. This Court does find that there are specific allegations as regards the recovery of 300 grams of 'herion' from the motorcycle, which the petitioner was driving and on which there were two other pillion riders. This Court also finds that pursuant to acquittal of the petitioner in earlier case i.e. in FIR No.159, dated 12.9.2011, he had moved an application under Section 58 of NDPS Act so as to prosecute the police officials for having falsely implicated him. It is ever since thereafter that he has been involved in 33 different cases one after another. In any case, none of the said cases is under NDPS Act and most of them are for offences under Sections 379 of Indian Penal Code. The contention of the petitioner that he is being falsely implicated by the police officials so as to pressurize and harass him for having initiated proceedings under Section 58 of NDPS Act, cannot be brushed aside lightly.
8. 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

9. In the present case, the petitioner has been behind bars since the last 3 years, 11 months and 21 days. Conclusion of trial is likely to consume time inasmuch as out of the cited 13 prosecution witnesses, only 3 PWs have been examined.
10. Keeping in view the totality of the facts and circumstances of the case, particularly the long custody and that although the petitioner stands involved in 1 more case under NDPS Act but he stands acquitted in said case, the petition merits acceptance and is hereby accepted.
11. 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.
12. 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.

10.10.2022

pankaj

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