

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

CRM-M-36931-2021 (O&M)
Date of Decision:-16.3.2022

Malkeet Singh @ Manjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Riffi Bala, Advocate for
Mr. Kamal Narula, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Mahender.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.155 dated 21.10.2018, Police Station Sadar Fazilka under Section 22/61/85 of Narcotic Drugs & Psychotropic Substances Act.
2. It is the case of prosecution that on 21.10.2018, the petitioner was found in possession of 1780 intoxicant tablets of 'Tori-SR' and 220 intoxicant tablets of 'Alprasafe 0.5'.
3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the story as projected by

the prosecution that the petitioner was carrying contraband in a polythene bag, which was hanging on the motorcycle driven by the petitioner, cannot be accepted as the petitioner would not have carried the contraband so openly and would have made efforts to conceal the same in case he was to actually indulge in drug trafficking. Learned counsel has further submitted that, in any case, the petitioner has been behind bars for a substantial period of more than 3 years and 3 months and is not involved in any other case and, as such, deserves to be released on bail.

4. On the other hand, learned State counsel has submitted that since the petitioner was caught red handed while in possession of 'commercial' quantity of contraband, no case for grant of bail is made out.
5. I have considered rival submissions addressed before this Court.
6. The petitioner, who was apprehended on 21.10.2018, has been behind bars for a substantial period of more than 3 years and 3 months and is stated to be having a clean record. The conclusion of trial is likely to consume more time inasmuch as only 4 out of the cited 9 PWs have been examined so far.
7. Hon'ble the Supreme Court vide order dated 7.2.2020 passed in Criminal Appeal No.245 of 2020 titled 'Chitta Biswas Alias Subhas Vs. The State of West Bengal' while dealing with a matter regarding grant of bail to an accused charged with allegations of being in possession of 'commercial' quantity of contraband, granted bail mainly on the ground that the petitioner has been in custody since 21.7.2018 and only 4 out of the cited 10 PWs have been examined.
8. In another case i.e. Criminal Appeal No.1570 of 2021 titled 'Mahmood Kurdeya Vs. Narcotics Control Bureau' pertaining to a case of recovery of

‘commercial’ quantity of ‘Tramadol’, where the accused had been in custody for about 3 years and 3 months, Hon’ble the Supreme Court was pleased to grant bail while making the following observations:

“.....What persuades us to pass an order in favour of the appellant is the fact that despite the rigors of Section 37 of the said Act, in the present case though charge sheet was filed on 23.09.2018 even the charges have not been framed nor trial has commenced. The manufacturer who sold the drugs to the appellant during the sunset clause himself has been granted bail.”

9. In yet another case i.e. Criminal Appeal No.668 of 2020 titled ‘Amit Singh Moni Vs. State of Himachal Pradesh’, Hon’ble the Supreme Court was pleased to grant regular bail pertaining to a case of recovery of ‘commercial’ quantity of contraband on account of custody of 2 years and 7 months.
10. Bearing in mind the long custody period of the petitioner and also that the petitioner otherwise has a clean record and the conclusion of trial is likely to consume time as till date only 4 out of the cited 9 PWs have been examined, the petition is accepted 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.

16.3.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No