

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-34225-2022

Date of Decision: 29.11.2022

Sandeep Kumar @ Deepu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Prateek Pandit, Advocate,
for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Dildar Singh.

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.88 dated 25.06.2019 at Police Station Kartarpur, Jalandhar (Rural), under Section 15 & 29 of the NDPS Act and Sections 420/464/465/467/468/471 IPC.
2. As per the case of prosecution, on 25.06.2019 when a police party was present at Focal Point, Nogja, then a truck was seen parked in suspicious circumstances near an abandoned building. The said truck was surrounded by the police and it was found that a young man with shorn hair was carrying a wooden stick within iron hook and was taking out polythene bags from floor of the truck and handing over the same to a person standing on the body of truck. The said two persons were

apprehended and upon inquiry the person standing outside the truck disclosed his name as Sandeep Kumar @ Deepu (petitioner), whereas the other person disclosed his name as Bhajan Lal. Since it was suspected that there was some intoxicant substance in the special box made on the floor of truck, the said persons were extended an offer in terms of Section 50 of Narcotic Drugs & Psychotropic Substances Act and as per their option a Gazetted Officer i.e. Shri Amandeep Singh Brar, PPS, D.S.P., Major Crime, Jalandhar (Rural) was called at the spot. Upon checking the truck in question, 400 kilograms of 'poppy husk' contained in polythene bags was recovered from a special box made on the floor of truck.

3. Learned counsel for the petitioner has submitted that the petitioner came to be involved accidentally in the present case and has nothing to do with trafficking of any drug. It has further been submitted that the petitioner has been behind bars for a substantial period of more than 3 years 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 upon arrest of co-accused, charges are yet to be framed afresh.
4. On the other hand, learned State counsel has submitted that since the petitioner was caught red handed at the spot alongwith Bhajan Lal and huge quantity of 'poppy husk' was recovered from the truck and at the given time he was assisting Bhajan Lal in removing the bags containing 'poppy husk' from the truck, his complicity is clearly evident. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 3 years, 1 month & 21 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, none out of cited 28 PWs has been examined till date.

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 No.	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 & 7 months
Criminal Appeal No.668/2020	12.10.2020	Amit Singh Moni Vs. State of Himachal Pradesh	2 years & 7 months
Special Leave to Appeal (Criminal) No.5769/2022	01.08.2022	Nitish Adhikary @ Bapan Vs. The State of West Bengal	1 year & 7 months
Special Leave to Appeal (Criminal) No.4173/2022	04.08.2022	Shariful Islam @ Sarif Vs. The State of West Bengal	1 year & 6 months
Criminal Appeal No.1169/2022	05.08.2022	Gopal Krishna Patra @ Gopalrusma Vs. Union of India	2 years, 1 month & 17 days
Special Leave to Appeal (Criminal) 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 none out of the cited 28 PWs has been examined till date, 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.

29.11.2022

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**