

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

CRM-M-39189-2020 (O&M)
Date of Decision:-24.11.2022

Nirmal Singh @ Nimma ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

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

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.155, dated 17.10.2019, Police Station Badhnikalan, District Moga, under Section 21/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985, wherein the allegations are broadly to the effect that the petitioner was found in possession of 1200 grams of '*heroin*'.
2. Learned counsel for the petitioner submits that it is a case where the prosecution claims that the alleged recovery of contraband was effected from the fields owned by the petitioner and that such like recovery from open fields cannot be said to be a recovery effected from the petitioner himself and, in any case, it cannot be said that the petitioner was in conscious possession of the same. It has further been submitted that the petitioner as on date has

been behind bars for more than 3 years and that as on date not even a single witness out of the cited 16 PWs has been examined and since the trial is proceeding at snail's pace, the petitioner deserves the concession of regular bail.

3. On the other hand, learned State counsel has submitted that since a huge quantity of contraband was recovered from the fields owned by the petitioner over which the petitioner had domain, he cannot escape from his liability and it is certainly a case where the petitioner has to be held to be in conscious possession of the said contraband. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 3 years and 1 month and that till date not even a single PW has been examined. It has also been informed that apart from the present case, the petitioner happens to be involved in one more case in respect of offence under Section 52-A of Prisons Act.
4. This Court has considered the rival submissions.
5. 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

6. Keeping in view the totality of the facts and circumstances of the case, particularly long custody of the petitioner and that conclusion of trial is likely to consume time inasmuch as not only a single witness out of the cited 16 PWs has been examined so far, the petition merits acceptance and is hereby accepted.
7. 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.
8. 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.

24.11.2022

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No