

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

CRM-M-8105-2021 (O&M)
Date of Decision:-22.2.2023

Balkar Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. J.S.Bhatta, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.
assisted by ASI Ram Parkash.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in a case registered vide FIR No. 37, dated 7.4.2020 at Police Station Mamdo, District Ferozepur, under Sections 22 and 29 of Narcotic Drugs & Psychotropic Substances Act.
2. The FIR was lodged on the basis of secret information to the effect that Balkar Singh (petitioner) indulges in sale of intoxicant tablets and that he was proceeding from village Lakho Ke Behram to village Jodhpur and that in case barricading is laid, he could be apprehended red-handed. Pursuant to receipt of aforesaid information, the police swung into action and raised barricading and the petitioner who was coming on motorcycle was apprehended. It is further the case of prosecution that the petitioner was carrying a bag on his motorcycle, the search of which yielded 3500 tablets of Tramadol 100-SR and 800 tables of Itazolam (0.5 mg).

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It has further been submitted that the petitioner has been behind bars for a substantial period of more than 2 years and 10 months and since the trial is proceeding at snail's pace, the petitioner cannot be kept behind bars for an indefinite period.
4. Opposing the petition, learned State counsel has submitted that since it is a case, wherein the petitioner was caught red-handed while in possession of 'commercial' quantity of contraband, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 2 years and 10 months. Learned State counsel has further informed that the petitioner is not involved in any other case.
5. This Court has considered the 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
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
Criminal Appeal No. 2027-2022	22.11.2022	Karnail Singh Vs. The State of Odisha	1 Year and 8 months
Special Leave to Appeal (Crl.) No. 8653-2022	25.11.2022	Karim Adaladar Vs. The State of West Bengal	10 months

7. Hon'ble Supreme Court in yet another judgment dated 25.1.2023 arising out of SLP No.6690-2022 titled Dheeraj Kumar Shukla Vs. State of Uttar Pradesh has granted bail in a case registered under the NDPS Act where the accused alongwith co-accused was found in possession of 'commercial' quantity of *Ganja* and had been behind bars since the last two and a half years while observing that in the absence of any criminal antecedents, the conditions of Section 37 of the NDPS Act could be dispensed with at that stage, particularly when there was delay in conclusion of trial.
8. Keeping in view the totality of the facts and circumstances of the case, particularly long custody of the petitioner i.e. more than 2 years and 10 months, who otherwise enjoys a clean record and that conclusion of trial is likely to consume time, 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.

22.2.2023
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No