

2023:PHHC:069621

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

I) CRM-M-7287-2023 (O&M)

Jaswant Singh ... Petitioner

Versus

State of Punjab ... Respondent

II) CRM-M-7312-2023 (O&M)

Bhupinder Singh ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-15.5.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.P.S. Virk, Advocate,
Mr. J.S. Kang, Advocate for
Mr. K.S. Dhaliwal, Advocate for the petitioner(s).

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

FIR No.	Dated	Police Station	Section/s
195	7.10.2020	Dharamkot, District Moga	22 of Narcotic Drugs and Psychotropic Substances Act, 1985.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Jaswant Singh and Bhupinder Singh seeking grant of regular bail in respect of abovementioned FIR.
2. The allegations, in nutshell, are that on 7.10.2020 both the petitioners were seen standing near a motorcycle bearing registration No.HR-60-G-7564 and a bag was lying on the motorcycle. When the police party approached them and searched the bag in question 3100 tablets of '*tramadol hydrochloride*' were recovered.
3. Learned counsel for the petitioner(s) submits that it is a case where conscious possession of the contraband cannot be attributed to the petitioners. It has further been submitted that since the petitioners have been behind for a substantial period of 2 years and 7 months and trial is proceeding at snail's pace inasmuch only 1 out of cited 13 PWs has been examined till date, the petitioners deserve to be released on bail.
4. Opposing the petition, learned State counsel has submitted that having regard to the quantity of contraband recovered, the petitioners do not deserve the concession of bail. It has been submitted that while the petitioner Jaswant Singh (in CRM-M-7287-2023) was previously involved in one case under Excise Act but he stands acquitted in the said case, the petitioner Bhupinder Singh (in CRM-M-7312-2023) is not involved in any other case. It is not disputed that the petitioners have been behind bars since the last about 2 years and 7 months and that as on date 1 PW out of cited 13 PWs has been examined.
5. This Court has considered the rival submissions addressed before this Court.

6. It is not in dispute that the petitioners are alleged to have been caught red handed while in possession of a ‘commercial’ quantity of contraband. Having regard to the fact that the petitioners have been behind bars for a substantial period of about 2 years and 7 months and also that conclusion of trial is likely to consume time inasmuch as only 1 PW out of the cited 13 PWs has been examined so far, further detention of the petitioners would not be justified.
7. Since the petitioners seek 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 Adaldar Vs. The State of West Bengal	10 months

8. 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.
9. Both the petitions, as such, are allowed and the petitioner(s) are ordered to be released on regular bail on their 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 petitioners are 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.
11. A copy of this order be placed on the file of connected case.

15.5.2023
pankaj

(Gurvinder Singh Gill)
Judge

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