

CRM-M-12491 of 2022

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

CRM-M-12491 of 2022
Date of decision: 23.01.2023

Shiv Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Arjunveer Sharma, Advocate,
for the petitioner.

Mr. Virat Rana, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

In compliance of order dated 24.11.2022, status report by way of affidavit of Jagdish Raj, Deputy Superintendent of Police, Sub-Division Phillaur, District Jalandhar (Rural) has been filed on behalf of the respondent-State, which is taken on record.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.173 dated 19.08.2019 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Goraya, Jalandhar.

According to the prosecution, on 19.08.2019, recovery of 7000 loose intoxicating capsules containing 4438 grams of psychotropic substance, namely, Dextropropoxyphene Hydrochloride was effected from the petitioner without any permit or licence.

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Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. Petitioner is in custody since 19.08.2019. Learned counsel further submits that investigation in the present case is complete; challan has been presented; charges have been framed and out of total 10 prosecution witnesses only one witness has been examined and the case is now fixed before the trial Court on 27.01.2023. He further submits that petitioner is not involved in any other case under the NDPS Act. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

Per contra, learned State counsel has opposed the prayer for grant of regular bail to the petitioner. However, he could not refute that out of total 10 prosecution witnesses only one witness has been examined till date; petitioner is in custody for the last 03 years 05 months and 05 days and the trial may take a considerable time to conclude. Referring to para 8 of the status report, learned State counsel submits that in case FIR No.373 dated 26.12.2012 under Section 61(1)(14) of the Excise Act registered at Police Station Sadar, Jalandhar, petitioner was convicted by the trial Court vide judgment dated 11.07.2013.

I have heard learned counsel for the parties and perused the record.

In view of the custody period undergone by the petitioner, 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 :-

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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.5187 of 2021	10.11.2021	Kulwant Singh Vs. The State of Punjab	More than 2 years
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 Gurjarat	About 2 years
Special Leave to Appeal (Crl.) No.7840 of 2022	31.10.2022	Shahjad Vs. The State of Uttar Pradesh	About 2 years

Keeping in view the custody of the petitioner, which is 03 years 05 months and 05 days; investigation is complete; challan has been presented; charges have been framed and out of 10 prosecution witnesses, only one prosecution witnesses has been examined and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on

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his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions: -

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

The petition stands disposed off accordingly.

23.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No