

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

CRM-M-12944-2022 (O&M)
Date of Decision:-19.9.2023

Karamjeet Singh ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S. Sekhon, Advocate for the petitioner.
Mr. Sharad Aggarwal, DAG, Haryana.

FIR No.	Dated	Police Station	Section/s
338	22.12.2020	Sadar, District Kaithal	18 (C) of Narcotic Drugs and Psychotropic Substances Act, 1985 (later on added Section 18(C) replaced with Sections 18-B, 27-A and 29 of NDPS Act)

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. The case of the prosecution is that on 22.12.2020, a secret information was received by the police to the effect that Karamjeet (petitioner), Gurpreet Singh @ Gopi and Ravinder @ Ravi @ Ravinder Pal indulged in sale of 'Opium' and that even on the said date Gurpreet alongwith his companions would be coming in a white coloured Verna car bearing registration No. PB-31-F-8117 to village Baba Ladhana. Pursuant to receipt of said information barricading was laid and upon noticing the car in question the

same was signaled to stop which was having three occupants. Upon inquiry, the driver disclosed his name as Gurpreet, while the passenger sitting on the front seat disclosed his name as Karamjeet and the person sitting on the rear seat disclosed his name as Ravinder. All three were extended an offer of in terms of Section 50 of the NDPS Act separately. The aforesaid three opted their search before a Magistrate. After arrival of Sh. Ishwar Singh, Naib Tehsildar, he was apprised about the facts, who inquired about the same from three apprehended persons turn by turn and also perused the notices under Section 50 of the NDPS Act. Upon search of the said three persons 'Opium' weighing 3.5 kgs. was recovered from a red checkered blanket from Karamjeet Singh.

3. On one of the previous dates i.e. on 11.4.2023, arguments had been raised that Naib Tehsildar, who conducted the search, was not a Gazetted Officer. In response to the aforesaid query, learned State counsel has filed reply dated 14.6.2023 by way of affidavit of Shri Umed Singh, HPS, DSP, (HQ) Kaithal, which is taken on record. The aforesaid reply clearly indicates that 'Naib Tehsildars' have been notified as Gazetted Officer by Government of Haryana vide notificaton dated 18.1.2006.
4. 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 about 2 years, 8 months and 23 days and since the trial is proceeding at snail's pace, the petitioner cannot be kept behind bars for an indefinite period.
5. 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 about 2 years, 8 months and 23 days. It has also been informed that the petitioner stands involved in one more case under NDPS Act. Learned State counsel has informed that as on date 3 PWs out of the cited 30 PWs have been examined.

6. This Court has considered the rival submissions addressed before this Court.
7. 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 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. In yet another case titled Chet Ram @ Ram Veer Versus Union of India (Special Leave to Appeal (Crl.) No(s).1166/2023) decided on 15.3.2023, Hon'ble the Supreme Court granted bail to the petitioner, accused of possessing a 'commercial' quantity of contraband, who had been behind bars since the last about 3½ years and wherein only 1 PW out of cited 10 PWs had been examined despite the fact that he was involved in another case for offence under NDPS Act on the ground that the trial was not likely to be concluded immediately.
10. 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.
11. 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.

19.9.2023

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No