

CRM-M-17649 of 2022

2023:PHHC:062392

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

CRM-M-17649 of 2022
Date of decision: 02.05.2023

Narender

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Johan Kumar, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.95 dated 27.03.2021 under Section 22C-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 18C & 18A of the Drugs and Cosmetic Act, 1940, registered at Police Station Kheripul, Faridabad, District Faridabad.

2. According to the prosecution on 27.3.2021 while ASI Bijender alongwith police party was present at Kachha Rasta, near Mehendi Peech, they received a secret information that one Narender (present petitioner) is involved in selling of narcotics injections and shall be coming from the side of Gopal Vatika towards Bharat Colony and if raid be conducted, he can be

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apprehended. The information being reliable, notice under section 42 of NDPS Act was sent to SHO concerned. Thereafter, ASI alongwith police officials reached at the spot and on the signal of secret informer, overpowered said boy, who was having a black colour bag in his band. He disclosed his name as Narender (present petitioner) son of Ram Kishore. Thereafter, a notice under section 50 of NDPS Act was given whereupon he desired that his search be carried out in the presence of a Gazetted Officer. Whereupon, Shri Amit Kamboj, XEN was informed on his mobile phone, who came after some time. Search of bag was carried out whereupon 20 injections of Buprenorphine Leegesis of 2 ml. each (total 40 ml.) and 8 Avil injections (total 80 ml) were recovered from the petitioner.

3. Learned counsel for the petitioner contends that the petitioner is in custody since 27.03.2021 and has completed custody period of two years one month and five days. He further submits that investigation in the present case is complete; challan has been presented; charges have been framed; out of total 13 prosecution witnesses only one witness has been examined and trial is likely to take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. *Per contra*, learned State counsel, while placing on record the custody certificate, has opposed the prayer for grant of regular bail to the petitioner by stating that the recovered contraband is of commercial quantity and the petitioner is involved in two other cases being FIR No.1126 dated 20.11.2018 under Section 174-A IPC, registered at Police Station Central Faridabad and FIR No.104/2013 under Sections 457/380 IPC, registered at

Police Station Bhupani, Faridabad. Although he has been acquitted in one case and has undergone the sentence period in other case. However, she could not refute that out of total 13 prosecution witnesses only one witness has been examined till date; petitioner is in custody for the last more than two years and the trial may take a considerable time to conclude.

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

6. 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 :-

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

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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

7. Keeping in view the custody of the petitioner, which is 02 years 01 month 05 days; investigation is complete; challan has been presented; charges have been framed and out of 13 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 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.

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(vii) The petitioner shall not in any manner try to delay the trial.

8. 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 an application for cancellation of bail of the petitioner.

9. The petition stands disposed of accordingly.

02.05.2023

R.S.

**(NAMIT KUMAR)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No