

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDI-
GARH**

201

CRM-M-23426-2021 (O&M)

Date of Decision: 16.02.2023

Abhishek Jain @ Lucky

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vaibhav Sehgal, Advocate, for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.122 dated 19.11.2019 at Police Station Divison No.4, Ludhiana, under Section 21, 61, 85 of the NDPS Act.
2. The allegations, in nutshell, are to the effect that pursuant to receipt of a secret information, the petitioner alongwith one Shubham Kumar @ Bump was found in possession of 400 grams of 'Heroin' while travelling in a Swift car bearing registration No.PB-10-BV-5773.
3. Learned counsel for the petitioner has submitted that the petitioner came to be involved falsely in the present case. It has further been submitted that the petitioner has been behind bars for a substantial period of more than 3 years & 2 months and that since the trial is proceeding at snail's pace, the petitioner deserves the concession of regular bail.

4. On the other hand, learned State counsel has submitted that since the petitioner alongwith Shubham Kumar was caught red handed while travelling in a car and a huge quantity of contraband was recovered from the said car, he does not deserve the concession of bail. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 3 years, 2 months & 24 days. Learned State counsel has also informed that the petitioner stands involved in 2 more cases registered under the Prisons Act. It has also been informed that as on date only 2 PWs out of cited 15 PWs have been examined.
5. This Court has considered 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 No.	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 & 7 months
Criminal Appeal No.668/2020	12.10.2020	Amit Singh Moni Vs. State of Himachal Pradesh	2 years & 7 months
Special Leave to Appeal (Criminal) No.5769/2022	01.08.2022	Nitish Adhikary @ Bapan Vs. The State of West Bengal	1 year & 7 months
Special Leave to Appeal (Criminal) No.4173/2022	04.08.2022	Shariful Islam @ Sarif Vs. The State of West Bengal	1 year & 6 months
Criminal Appeal No.1169/2022	05.08.2022	Gopal Krishna Patra @ Gopalrusma Vs. Union of India	2 years, 1 month & 17 days
Special Leave to Appeal (Criminal) 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 & 8 months
Special Leave to Appeal (Criminal) No.8653-2022	25.11.2022	Karim Adaldar Vs. The State of West Bengal	10 months

7. Keeping in view the totality of the facts and circumstances of the case particularly the long custody of the petitioner and the fact that only 2 PWs out of cited 15 PWs have been examined till date, the petition merits acceptance and is hereby accepted.
8. 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.
9. 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.

16.02.2023

Nisha

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**