

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

CRM-M-29593-2021 (O&M)
Date of Decision:- 23.03.2023

Gaurav Pruthi ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sandeep Kumar Passi, Advocate, for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by HC Amandeep Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.75 dated 22.05.2020 under Sections 22/25/29 of NDPS Act at Police Station City Jalalabad, District Fazilka.
2. The case of prosecution is that on 22.05.2020, when a police party headed by ASI Harbans Lal, CIA, Fazilka, was present in the Dana Mandi, Jalalabad, then a secret information was received to the effect that Prince Prithi and his brother Gaurav Pruthi, who were running a medical store at Jalalabad, indulged in illegal sale of intoxicant tablets under the garb of running pharmaceutical business, in connivance with Paramjit Singh @ Pamma, who used to purchase intoxicant

tablets from them and used to further sell the same in villages. The information was further to the effect that even on the given day Paramjit Singh had gone for purchasing the intoxicant tablets from them and in case a raid is conducted they could be caught red-handed. Pursuant to receipt of said information, barricading was laid and the police party was able to intercept a motor-cycle on which two persons were riding and were carrying a carton. While the driver disclosed his name as Gaurav Pruthi, the pillion rider disclosed his name as Paramjit Singh. The search of carton led to recovery of 40,000 tablets of 'Tramadol'.

3. It is further the case of prosecution that during the course of interrogation Gaurav Pruthi disclosed that some more tablets have been kept in a Verna car bearing registration No. PB-61-C-8476, which was parked in their garage on Muktsar Road, Jalalabad. The police went to the nominated place and recovered another 40,000 tablets of Tramadol from the Verna car. The said car was found to be registered in the name of Gaurav Doomra who was arrested on 23.5.2020. It is further the case of prosecution that pursuant to disclosure statement made by Gaurav Pruthi, Gurjit Singh was also nominated as an accused vide DDR No. 51 dated 23.5.2020. Said Gurjit Singh was arrested and who is alleged to have disclosed that he had kept 4000 tablets of Tramadol, purchased from the aforesaid persons, in his house. The said tablets were recovered and taken into possession by the police.

4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case. It has been submitted that co-accused of petitioner have already been granted bail by this Court and since the petitioner has been behind bars for a substantial period of about 2 years, 9 months and 28 days, he deserves to be released on bail.
5. Opposing the petition, learned State counsel has submitted that since the petitioner was caught red-handed at the spot while in possession of ‘commercial quantity’ of contraband, no case for grant of bail is made out. It has however, been informed that the petitioner, as on date, has been behind bars since the last about 2 years, 9 months and 28 days. It has also been informed that as on date only 1 out of the cited 27 PWs has been examined so far. It has been informed that the petitioner is not wanted in any other case under NDPS Act however, he is stated to be involved in one complaint case pertaining to Section 138 of Negotiable Instruments Act.
6. This Court has considered rival submissions.
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 25.01.2023 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. Keeping in view the totality of the facts and circumstances of the case particularly the long custody of the petitioner i.e more than 2 years, 9 months and 28 days and the fact that only 1 out of the cited 27 PWs has been examined, the petition merits acceptance and is hereby accepted.
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.

23.03.2023
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(GURVINDER SINGH GILL)
JUDGE

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