

CRM-M-26617 of 2022

2023:PHHC:052557

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

CRM-M-26617 of 2022
Date of decision: 17.04.2023

Gurbinder Singh alias Vicky

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Monty Goyal, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.104 dated 12.10.2019 under Sections 21/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Special Task Force, District STF Wing, Ludhiana.

The FIR was registered on the basis of secret information to the effect that Kamal Kumar, Gurbinder Singh @ Vicky (present petitioner) and Sneha @ Bandhna were coming in a car belonging to Sneha @ Bandhna for doing illicit business of sale of heroin. The naka was installed by the police and the car was stopped. From the place of shifting the gear of the car, a polythene envelope was found tied with knot and the same was recovered.

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On weighment, 1 kg 530 grams of heroin was recovered. 250 empty transparent locked pouches were also recovered.

Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the present case. He further submitted that petitioner is neither the owner nor driver of the car from which the alleged recovery has been effected. He further submitted that co-accused of the petitioner, namely, Sneha @ Bandhna has been granted regular bail by a Co-ordinate Bench of this Court vide order dated 01.12.2022. Learned counsel further submitted that investigation in the present case is complete; challan has been presented; charges have been framed; out of total 15 prosecution witnesses only four witnesses have been examined and the case is now fixed before the trial Court on 20.04.2023. He submitted that petitioner is in custody since 12.10.2019. He is not involved in any other case. 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 while placing on record custody certificate, on the basis of status report dated 06.04.2023, submitted that recovery effected from the petitioner and co-accused is commercial in nature. However, he could not refute that co-accused, namely, Sneha @ Bandhna has been granted the concession of regular bail by a Co-ordinate Bench of this Court; investigation is complete, challan has been presented; charges have been framed; out of total 15 prosecution witnesses only four witnesses have been examined as yet and petitioner is not involved in any other case.

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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 :-

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

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Keeping in view the custody of the petitioner, which is 03 years 06 months and 04 days; co-accused Sneha @ Bandhna has already been granted regular bail; investigation is complete; challan has been presented; charges have been framed and out of 15 prosecution witnesses only 04 witnesses have been examined; petitioner is not involved in any other case 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.

The petition stands disposed of accordingly.

Nothing expressed hereinabove would be construed to be an expression of opinion on the merits of the case.

17.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No