

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

CRM-M-29508-2022 (O&M)
Date of Decision:- 21.4.2023

Happy Singh @ Mani ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. H.P.S. Sidhu, Advocate, for the petitioner.
Mr. Siddharth Attri, AAG, Punjab.

FIR No.	DATE	POLICE STATION	OFFENCES
176	07.09.2020	Dharmkot, District Moga	22 of the NDPS Act

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered in a case arising out of above mentioned FIR.
2. As per the case of prosecution, on 7.9.2020 the petitioner was apprehended by the police while in possession of 600 tablets of ‘Alprazolam Altis’ and 570 tablets of ‘Etizolam’. The total quantity of the recovered ‘Alprazolam’ tablets works out to 117 grams. As far as ‘Etizolam’ is concerned, the same was included in the list of psychotropic substances w.e.f. 23.3.2021 and thus the same cannot be

reckoned as a contraband as on the date when the same was recovered from the petitioner.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case. It has further been submitted that the petitioner is not involved in any other case and has been behind bars for a substantial period of more than 2 years & 7 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 was caught red handed at the spot and huge quantity of contraband was recovered, 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 2 years, 7 months & 10 days and that he is not involved in any other case. Learned State counsel has also informed that as on date only 1 PW out of cited 14 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 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

7. 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.

8. 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 & 7 months and the fact that only 1 PW out of cited 14 PWs have been examined so far, the petition merits acceptance and is hereby accepted.
9. 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.
10. 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.

21.4.2023
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(GURVINDER SINGH GILL)
JUDGE

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