

CRM-M-33930 of 2021 (O&M)

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

CRM-M-33930 of 2021 (O&M)
Date of decision: 20.02.2023

Mohit Sharma @ Pandit

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Prateek Pandit, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-8350 of 2023

This application has been filed by the applicant-petitioner for replacing Annexure P-1 on record with a better translation and further for exemption from filing the certified copy thereof.

Allowed as prayed for. Annexure P-1 is taken on record subject to all just exceptions.

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This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.99 dated 20.05.2021 under Sections 20/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Division No.6, Police Commissionerate, Jalandhar.

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According to the prosecution, on 20.05.2021 a Swift Car bearing registration number PB-08-ES-4629 was intercepted by a police party, headed by ASI Jaswinder Singh, in the area of Dehrian Chowk, Model Town, Jalandhar, being driven by Varun Sharma with petitioner-Mohit Sharma @ Pandit and Simranjit Singh @ Randhawa on board. From the search of bag of petitioner-Mohit Sharma @ Pandit Charas like narcotic to the tune of 700 grams was recovered; from the search of Simranjit Singh 80 grams of Charas like narcotic was recovered and from the polythene bag below the driver seat of Varun Sharma Charas like narcotic to the tune of 900 grams was recovered.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He further submits that alleged recovery of 700 grams of charas from the petitioner falls under the intermediate category. Petitioner is in custody since 20.05.2021. Learned counsel further submits that investigation in the present case is complete; challan has been presented; charges have been framed and out of total 11 prosecution witnesses only three witnesses have been examined in chief and the case is now fixed before the trial Court on 02.03.2023. Petitioner 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 the custody certificate has opposed the prayer for grant of regular bail to the petitioner. However, he could not refute that out of total 11 prosecution witnesses only three witnesses have been examined in chief till date; petitioner is in custody for the last 01 year 09 months and 01 day and the

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trial may take a considerable time to conclude.

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

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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 01 years 09 months and 01 day; investigation is complete; challan has been presented; charges have been framed and out of 11 prosecution witnesses, only three prosecution witnesses have been examined in chief and trial is likely to take a considerable time and clear antecedents, 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.
- (vii) The petitioner shall not in any manner try to delay the trial.

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

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to move an appropriate application for cancellation of bail of the petitioner.

The petition stands disposed off accordingly.

20.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No