

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

CRM-M-29236-2023 (O&M)
Date of Decision:- 03.07.2023

Harvinder Singh ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. D.S.Virk, Advocate, for the petitioner.
Mr. Sharad Aggarwal, DAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.24, dated 22.2.2020, under Sections 15-A, 21-C, 22-C and 29/61/85 of NDPS Act, Police Station Guhla, District Kaithal.
2. The FIR in question was lodged on the basis of secret information received by the police to the effect that Harvinder Singh sells ‘poppy husk’ and in case a raid is conducted heavy quantity of ‘poppy husk’ can be recovered from the store in the house of Harvinder Singh. Upon receipt of said information, the police proceeded to the house of Harvinder Singh and saw a boy coming out of the store who was

carrying two green coloured polythene bags in his right hand and one green coloured polythene bag in his left hand and who upon noticing the police party threw away the said polythene bags and tried to run away. However, the said boy was apprehended. Brown coloured substance was noticed scattered on the floor from one of the polythene bags which had been thrown by aforesaid Harvinder Singh. The said substance was found to be 'poppy husk'. Upon checking another polythene bag thrown by Harvinder Singh, the same was found to contain 1110 tablets of 'Tramadol Hydrochloride' and 1390 tablets of 'Alprozolam'. The third polythene bag was also found to contain 'poppy husk'. Upon enquiry, the boy who had been apprehended disclosed his name as Harvinder Singh. When he was asked about the contents of the two polythene bags which contained brown coloured substance, Harvinder Singh disclosed that one polythene bag contained 'poppy husk' and the other contained intoxicant chemical powder. Upon weighment of 'poppy husk', the same was found to weigh 800 grams. The intoxicant chemical powder was found to weigh about 7 kilograms. The weight of 1110 tablets of 'Tramadol Hydrochloride' was found to be 440 grams and of 1390 tablets of 'Alprozolam' was found to be 165 grams.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case. It has been submitted that since the petitioner has been behind bars for a substantial period of about 3 years and 4 months, he deserves to be released on bail.
4. On the other hand, learned State counsel has submitted that since the petitioner along with co-accused was found in conscious possession

of ‘commercial quantity’ of contraband, no case for grant of bail is made out. However, learned State counsel informed that the petitioner is not wanted in any other case. It has been further informed that the petitioner, as on date, has been behind bars since the last about 3 years and 4 months. Learned State counsel has further informed that, in the present case, 6 out of cited 22 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	22.08.2022	Mohammad Salman Hanif	About 2 years

to Appeal (CrI.) No. 5530-2022		Shaikh Vs. the State of Gujarat	
Criminal Appeal No. 2027-2022	22.11.2022	Karnail Singh Vs. The State of Odisha	1 Year and 8 months
Special Leave to Appeal (CrI.) 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 3 years and 4 months and the fact that only 6 out of cited 22 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.

03.07.2023
mohan

(GURVINDER SINGH GILL)
JUDGE

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