

2023:PHHC:046754

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

CRM-M-32217-2022 (O&M)
Date of Decision:-29.3.2023

Rahul ... Petitioner

Versus

Union of India, Narcotics Control Bureau, Chandigarh ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gaurav Deep Goel, Advocate for the petitioner.

Mr. Rajiv Sharma, Senior Standing Counsel,
for the respondent – NCB.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide Crime No. 19/2019, dated 24.4.2019 at Narcotic Control Bureau, Chandigarh, under Sections 8, 18, 29, 60, 27-A of Narcotic Drugs & Psychotropic Substances Act.
2. It is the case of prosecution that on 23.4.2019 pursuant to receipt of secret information three persons namely Hari Shanker, Rajesh Kumar and Rahul (petitioner) were apprehended who were found in possession of 4.65 kilograms of “*Opium*”. It is further the case of prosecution that during interrogation they disclosed that the said “*Opium*” was to be delivered to the Nirmal Singh, Gurmail Singh and Lakhwinder.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It has further been submitted that the petitioner has been behind bars for a substantial period of about 4 years and since the trial is proceeding at snail’s pace as only 3 PWs out of the cited 30 PWs have been examined till date, the petitioner cannot be kept behind bars for an indefinite period. Learned counsel for the petitioner has submitted that the petitioner is not involved in any other case.
4. Opposing the petition, learned State counsel has submitted that since it is a case, wherein the petitioner was caught red-handed while in possession of ‘commercial’ quantity of contraband, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 4 years. Learned State counsel has not refuted the contention of the petitioner regarding examination of PWs as on date and has not shown anything as regards any other involvement of the petitioner.
5. This Court has considered the rival submissions addressed before this Court.
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 Adaladar Vs. The State of West Bengal	10 months

7. Hon'ble Supreme Court in yet another judgment dated 25.1.2023 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. Having regard to the fact that the petitioner has been behind bars since the last about 4 years and is not shown to be involved in any other case, this Court is of the opinion that provisions of Section 37 of NDPS Act at this stage can be dispensed with in the present case.

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.

29.3.2023

(Gurvinder Singh Gill)

pankaj

Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No