

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

CRM-M-32193-2022 (O&M)
Date of Decision:-24.5.2023

Ishan Gupta ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. G.S.Kaura, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Surjit Singh.

FIR No.	Dated	Police Station	Section
148	31.8.2019	Division No.3, District Police Commissionerate, Ludhiana	21 of NDPS Act

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. The FIR in question was registered pursuant to receipt of a secret information to the effect that Amit Sachdeva son of Arun Kumar Sachdeva, resident of H.No.1916/157, SDP College Road, Dhai Marla Colony, Shivpuri, Ludhiana alongwith Ishan son of late Vinod Kumar Gupta, resident of H.No.304, Neem Wala Chowk, Ludhiana and Reena wife of late Sanjiv Kumar, resident of

rented house No.5326, Street No.1, New Shivaji Nagar, Ludhiana indulged in sale of intoxicant capsules and tablets. The information was further to the effect that even on the given day, Amit Kumar alongwith his accomplices have kept huge quantity of capsules and tablets in the rented house of Reena and that Ishan had also kept a large quantity of tablets in the dicky of his silver coloured Verna car, which is parked in a vacant plot adjacent to the house of Reena. Pursuant to receipt of said information, the police party reached near the house of Reena where Verna car was found parked and Ishan upon seeing the police party tried to run away, but was nabbed by the police. A search of the Verna car led to recovery of 84000 tablets of 'Tramadol'. Thereafter, the police party went inside the house i.e. H.No.5326, Street No.1, New Shivaji Nagar, Ludhiana, where Amit Sachdeva was found sitting in the front room on a bed. The petitioner was extended an offer in terms of Section 50 of the NDPS Act, but he reposed confidence in Inspector Satish Kumar present there and from search of the bed 52 boxes of 'Tramadol' total containing 26000 tablets were recovered. Thereafter, the police party went towards the backside of the house where Reena was sitting on a bed near an almirah and upon search of almirah, 14000 tablets of 'Tramadol' were recovered.

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 more than 3 years, 1 month and 26 days and since the trial is proceeding at snail's pace, the petitioner cannot be kept behind bars for an indefinite period.

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 3 years, 1 month and 26 days. It has also been informed that the petitioner happens to be involved in one more case registered for offence under NDPS Act. It has also been informed that till date only 1 PW out of the cited 17 PWs has been examined.
5. This Court has considered the rival submissions addressed before this Court.
6. The conclusion of trial is certainly likely to consume time inasmuch a large number of PWs i.e. 17 PWs have been cited. In these circumstances, having regard to the custody of the petitioner i.e. about 3 years, 1 month and 26 days and the fact that the trial is likely to be prolonged in view of the large number of witnesses, further detention of the petitioner would not be justified.
7. 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

8. 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.
9. In yet another case titled Chet Ram @ Ram Veer Versus Union of India (Special Leave to Appeal (Crl.) No(s).1166/2023) decided on 15.3.2023, Hon'ble the Supreme Court granted bail to the petitioner, accused of possessing a 'commercial' quantity of contraband, who had been behind bars since the last about 3½ years and wherein only 1 PW out of cited 10 PWs had been examined despite the fact that he was involved in another case for offence under NDPS Act on the ground that the trial was not likely to be concluded immediately.

10. 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.
11. 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.

24.5.2023
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No