

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

CRM-M-34615-2023 (O&M)
Date of Decision:-14.12.2023

Fakiria @ Tarsh ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. C.S. Jattana, Advocate for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab,
assisted by ASI Gurmail Singh (Belt No.712).

FIR No.	Dated	Police Station	Section/s
92	1.5.2021	City Kotkapura, District Faridkot	22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (later on added Section 29 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. As per the case of prosecution, the petitioner was apprehended by the police while in possession of 1900 tablets of ‘*tramadol hydrochloride*'.
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 2 years and 7 months 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 more than 2 years and 7 months. It has also been informed that the petitioner is not involved in any other case. Learned State counsel has informed that as on date 14 PWs out of the cited 24 PWs have been examined and 3 PWs have been given up.
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 Adaldar 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. Keeping in view the totality of the facts and circumstances of the case, particularly long custody of the petitioner and also the fact that the petitioner is having a clean record and that conclusion of trial is likely to consume time inasmuch as only 14 PWs out of the cited 24 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.

14.12.2023

pankaj

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No

(Gurvinder Singh Gill)
Judge