

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-40305-2022 (O&M)

Date of decision: 3rd October, 2023

Gagandeep Sharma

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Manbir Singh, Advocate for
Mr. R.S. Waraich, Advocate for the petitioner.
Mr. Sandeep Kumar, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This second petition is filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
160	26 th August, 2020	Bhikhiwind, District Tarn Taran	18 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act')

Earlier petition was dismissed as withdrawn on
2nd February, 2022.

2. The case set up by the prosecution is that on 26th August,
2020, police party acting upon a secret information checked a car
bearing registration No. PB-02-DL-6232, petitioner was the occupant of
the car. He tried to flee but was apprehended and four kilogram of
opium was recovered from the plastic bag held by the petitioner. The
driver of the car managed to escape alongwith the vehicle.

3. Learned counsel for the petitioner submits that petitioner is
in custody sicne 26th August, 2020 and he is not involved in any other

decision of *Supreme Court* in *Special Leave to Appeal (Crl.) No.(s) 4169 of 2023—Rabi Prakash v. The State of Odisha*, decided on 13th July, 2023, *Special Leave to Appeal (Crl.) No(s), 3221/2023 titled as Hasanujjaman and ors vs. The State of West Bengal, Special Leave to Appeal (Crl.) No.1166/2023 titled as Chet Ram @ Ram Veer vs. Union of India* decided on 15th March, 2023 and *SLP (Crl.) No. 6690 of 2022-Dheeraj Kumar Shukla v. The State of Uttar Pradesh* decided on 25th January, 2023 contending that petitioner is in custody for more than two years and trial is not progressing at a decent pace.

4. Learned State counsel opposes the prayer and submits that recovery is of commercial quantity. On instructions from ASI Kuldeep Singh submits that charges were framed on 7th September, 2021 but none of the prosecution witnesses have been examined.

5. It is clarified that observations made hereinafter shall not be construed as an expression of opinion on the merits of the case.

6. As per the custody certificate dated 26th July, 2023, the petitioner is in custody for two years, ten months and twenty-nine days. On one hand, personal liberty of the petitioner is deprived and on the other hand, there is no progress in the trial. The Supreme Court in cases cited above in such similar circumstances considering that there is violation of Article 21 of Constitution of India granted bail taking into account the custody period and the fact that trial was not progressing. No useful purpose would be served by depriving the personal liberty of the petitioner, conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the

Chief Judicial Magistrate/ Duty Magistrate concerned.

3rd October, 2023
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |