

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

CRM-M-46486-2022 (O&M)
Date of Decision:- 15.03.2023

Gurnam Singh @ Thammu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurpal Singh Sandhu, Advocate, for the petitioner.

Mr. Siddharth Attri, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.01, dated 30.11.2017, under Sections 18, 21, 25, 29, 61, 85 of NDPS Act, Police Station S.S.O.C. Fazilka, District Fazilka.
2. It is the case of prosecution that on 30.11.2017 a secret information was received by the police to the effect that Mukhtiar Singh @ Kali, Gurnam Singh, Surjit Singh had taken land on lease beyond the fencing area between India and Pakistan and that they smuggle 'Heroin' from across the border with the help of their agriculture equipment and pass on the same to Sammar Singh @ Sharma (petitioner) and to Sandeep. It is further the case of prosecution that

upon receipt of aforesaid information a raid was conducted and Mukhtiar Singh @ Kali and Gurnam Singh were apprehended while they were coming on their tractor and from whom 'Heroin' weighing 3.2 kg was recovered. It is further the case of prosecution that the aforesaid two were also accompanied by Surjit Singh but he managed to escape from the spot.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case. It has been submitted that co-accused of petitioner have already been granted bail by this Court and 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. It has been pointed out that the petitioner has been convicted for offence punishable under Section 138 of Negotiable Instruments Act. 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 18 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 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 25.01.2023 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 18 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.

15.03.2023
mohan

(GURVINDER SINGH GILL)
JUDGE

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