

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

CRM-M-47538-2022 (O&M)  
Date of Decision:- 19.07.2023

Mukesh Kumar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Pankaj Garg, Advocate, for the petitioner.  
Mr. Aman Dhir, DAG, Punjab.

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| FIR NO. | DATE       | POLICE STATION         | OFFENCES              |
|---------|------------|------------------------|-----------------------|
| 169     | 05.10.2020 | City-2, District Mansa | 21 and 25 of NDPS Act |

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered in a case arising out of above mentioned FIR.
2. The case of the prosecution is that on 05.10.2020, 27 vials of WINCIREX (100 ml) [codeine phosphate] and 300 tablets of Carisoprodol were recovered from the petitioner.
3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case. It has been submitted that since

the petitioner has been behind bars for a substantial period of about 2 years, 9 months and 16 days, 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. However, learned State counsel informed that the petitioner is not wanted in any other case. It has been further informed that the petitioner, as on date, has been behind bars since the last about 2 years, 9 months and 16 days. Learned State counsel has further informed that, in the present case, 5 out of cited 14 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                      | 04.08.2022       | Shariful Islam @ Sarif Vs. the State of West         | 1 year and 6 months                                                                |

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|----------------------------------------------|------------|-------------------------------------------------------|-----------------------------|
| (Crl.) No. 4173 of 2022                      |            | Bengal                                                |                             |
| 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 clean antecedents and long custody of the petitioner i.e more than 2 years, 9 months and 16 days and the fact that only 5 out of cited 14 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.

19.07.2023  
mohan

( GURVINDER SINGH GILL)  
JUDGE

|                            |          |
|----------------------------|----------|
| Whether speaking /reasoned | Yes / No |
| Whether Reportable         | Yes / No |