

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CRM-M-54003-2021 (O&M)
Date of Decision: 22.03.2023

Bhinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Rishu Garg, Advocate, for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by HC Jagtar Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.095 dated 15.07.2020 registered at Police Station Dhanaula, District Barnala, under Sections 22(c)/25/29/61/85 of the NDPS Act.
2. The FIR in question was lodged on the basis of secret information received by ASI Sharif Khan on 15.07.2020 to the effect that Chamkaur Singh, Manpreet Singh and Bhinder Singh (petitioner) had formed a gang and used to bring intoxicant tablets from outside and used to sell the same at Dhanaula and nearby villages to drug addicts. The information was further to the effect that even on the given day, they have been seen roaming on a black coloured motorcycle bearing Registration No.PB-19M-1866 while trying to sell intoxicating tablets. It is further the case of prosecution that pursuant to receipt of said information, the police started conducting search for the accused and when the police party reached near

the bridge on main road leading from Barnala to Sangrur, then 3 persons with shorn hair were found sitting underneath the bridge on Sangrur side and who were seen counting something after taking out the same from a plastic envelope. Upon noticing the police, all three of them threw intoxicant strips held in their hands which were scattered but were visible. The police was able to apprehend all three of them and who upon enquiries disclosed their names as Chamkaur Singh, Manpreet Singh and Bhinder Singh. The intoxicant strips thrown on the ground were collected and were found to be 100 in number with each strip containing 10 tablets of Clovidol 100. Thus, a total of 1000 intoxicant tablets were recovered which were taken into possession. The personal search of the said persons did not yield anything incriminating. It is further the case of prosecution that during interrogation, they disclosed that the said tablets had been purchased by them from Sukhdev Singh, who was later arrested on 17.07.2020.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been 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 & 8 months and that since the trial is proceeding at snail's pace, the petitioner deserves the concession of regular bail.
4. On the other hand, learned State counsel has submitted that since the petitioner was caught red handed at the spot and huge quantity of contraband was recovered, he does not deserve the concession of bail. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 2 years, 8 months & 5 days and that he is

not involved in any other case under the NDPS Act. Learned State counsel has also informed that as on date only 3 PWs out of cited 22 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 No.	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 & 7 months
Criminal Appeal No.668/2020	12.10.2020	Amit Singh Moni Vs. State of Himachal Pradesh	2 years & 7 months
Special Leave to Appeal (Criminal) No.5769/2022	01.08.2022	Nitish Adhikary @ Bapan Vs. The State of West Bengal	1 year & 7 months
Special Leave to Appeal (Criminal) No.4173/2022	04.08.2022	Shariful Islam @ Sarif Vs. The State of West Bengal	1 year & 6 months
Criminal Appeal No.1169/2022	05.08.2022	Gopal Krishna Patra @ Gopalrusma Vs. Union of India	2 years, 1 month & 17 days
Special Leave to Appeal (Criminal) 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 & 8 months
Special Leave to Appeal (Criminal) 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 2 years & 8 months and the fact that only 3 PWs out of cited 22 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.

22.03.2023

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(GURVINDER SINGH GILL)**JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**