

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

208

CRM-M-50527-2022

Date of Decision: 20.04.2023

Riyaz Ahmad Sheikh...Petitioner

Versus

Union of India and another...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vipin Mahajan, Advocate, for the petitioner.

Ms. Puneeta Sethi, Senior Panel Counsel for UOI.

Mr. Luvinder Sofat, DAG, Punjab.

| NCB<br>Crime<br>No. | Dated      | Police Station                          | Section/s                                    |
|---------------------|------------|-----------------------------------------|----------------------------------------------|
| 31                  | 26.06.2019 | Narcotic<br>Control Bureau,<br>Amritsar | 8, 15, 25, 27A, 29, 60 and 62<br>of NDPS Act |

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of aforementioned  
FIR.
2. As per the case of the prosecution, the petitioner along with co-accused  
Mujjafar Ahmad was apprehended pursuant to receipt of a secret  
information and 500 kgs. poppy husk was recovered from the truck in  
which they were travelling.

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 3 years and 9 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 Senior Standing counsel representing UOI has submitted that since the petitioner was caught red handed at the spot and huge quantity of contraband was recovered from the truck in which he was travelling along with co-accused Mujjafar Ahmad, he does not deserve the concession of bail. It has also been informed that as on date only 2 PWs have been examined and as a matter of fact, the cross-examination of PW-2 is yet to be conducted and he has only been partly examined.
5. Mr. Luvinder Sofat, DAG, Punjab representing the State has today furnished the custody certificate of the petitioner as per which the petitioner has been behind bars since the last about 3 years, 9 months and 24 days. Learned State counsel has also informed that the petitioner is not involved in any other case.
6. This Court has considered rival submissions.
7. 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                                                                         |

8. 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.

9. 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 9 months and the fact that as on date only 2 PWs have been examined, the petition merits acceptance and is hereby accepted.
10. 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.
11. 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.

**20.04.2023**

Lavisha

**(GURVINDER SINGH GILL)**

**JUDGE**

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**