

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

CRM-M-52149-2022 (O&M)
Date of Decision:-15.5.2023

Nekdeep Kumar @ Sunny ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Divya Sharma, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.

FIR No.	Dated	Police Station	Section/s
89	16.5.2020	Kotwali, Kapurthala	22, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985; Sections 188 and 269 of Indian Penal Code and Section 3 of Epidemic Diseases Act

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. As per the case of prosecution, the petitioner Nekdeep Kumar @ Sunny was apprehended by the police on 16.5.2020 during the course of ‘Nakabandi’ while he was travelling on a Hyundai Venue Car bearing registration No.PB-08-EL-1937. The search of the car led to recovery of 17 injections of ‘diazepam’ and 1 kg. of ‘Alprazolam’ powder. It is further the case of

prosecution that during the course of interrogation he disclosed names of another 8 persons, who were associated with him. Thereafter, upon arrest of some of these persons, names of some more accused came to be disclosed and now the police has arrayed as many as 22 accused in the present case.

3. Status report by way of affidavit of Shri Barjinder Singh, DSP Detective, Kapurthala has been filed by learned State counsel, which is taken on record.
4. Learned counsel for the petitioner has submitted the petitioner has falsely been implicated in the present case and that in any case the petitioner has been behind bars for a period of about 3 years and since as of now, none out of the cited 72 PWs has been examined, the petitioner deserves the concession of bail.
5. Opposing the petition, learned State counsel has submitted that having regard to the fact that a 'commercial' quantity of contraband was recovered from the petitioner and the case infact turns out to be a big scam, wherein as many as 22 persons are involved into large scale trafficking of drugs, no case for grant of bail is made out. It has also been informed that the petitioner stands involved in 1 more case under NDPS Act, wherein the petitioner is already on bail. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 3 years and that none out of the cited 72 PWs has been examined till date and that as many as 12 accused still remain to be arrested.
6. This Court has considered the rival submissions addressed before this Court.
7. It is not in dispute that the petitioner is alleged to have been caught red handed while in possession of a 'commercial' quantity of contraband.

Although charges have been framed but none out of the cited 72 PWs has been examined so far. The petitioner is involved in one more case under NDPS Act, wherein he has been nominated on the basis of a disclosure statement made by a co-accused from whom recovery was effected and wherein he (petitioner) is already on bail.

8.
- The conclusion of trial is certainly likely to consume time inasmuch a large number of PWs i.e. 72 PWs have been cited. In these circumstances, having regard to the custody of the petitioner i.e. about 3 years and the fact that the trial is likely to be prolonged in view of the large number of witnesses, further detention of the petitioner would not be justified.
9.
- 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

10. Hon'ble Supreme Court in yet another judgment dated 25.1.2023 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.
11. In yet another case titled Chet Ram @ Ram Veer Versus Union of India (Special Leave to Appeal (Crl.) No(s).1166/2023) decided on 15.3.2023, Hon'ble the Supreme Court granted bail to the petitioner, accused of possessing a 'commercial' quantity of contraband, who had been behind bars since the last about 3½ years and wherein only 1 PW out of cited 10 PWs had been examined despite the fact that he was involved in another case for offence under NDPS Act on the ground that the trial was not likely to be concluded immediately.
12. 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.

13. 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.

15.5.2023
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(Gurvinder Singh Gill)
Judge

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