

CRM-M-53714 of 2022

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-53714 of 2022
Date of decision: 15.02.2023

Kuldeep Singh @ Manak

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. M.S. Saini, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

In compliance of order dated 24.11.2022, status report by way of affidavit of Kulwant Singh, Deputy Superintendent of Police, Sub-Division Tanda, District Hoshiarpur, has been filed on behalf of the respondent-State, which is taken on record.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.092 dated 27.04.2017 under Section 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Tanda, District Hoshiarpur, Punjab.

According to the prosecution, petitioner was apprehended with 270 grams intoxicant powder containing salt Alprazolam.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He submits

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that petitioner has been implicated in the present case on the basis of his alleged disclosure statement when he was in custody in case FIR No.60 dated 27.03.2017 under Sections 382, 34 IPC, registered at Police Station Tanda, District Hoshiarpur. The alleged recovery has been implanted upon the petitioner. Petitioner is in custody for the last about 02 years and 03 months Learned counsel further submits that investigation in the present case is complete; challan has been presented on 04.07.2018; charges have been framed on 01.08.2018 and the case is being adjourned and is at the stage of prosecution evidence and is now fixed before the trial Court on 16.03.2023. He further submits that trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

Per contra, learned State counsel has placed on record the custody certificate and opposed the prayer for grant of regular bail to the petitioner stating that recovered substance falls under the category of 'commercial quantity', therefore, provisions of Section 37 of the NDPS Act are attracted in the present case. He further submits that petitioner is a habitual offender as he is involved in various other cases.

Learned counsel for the petitioner submits that petitioner has been acquitted in seven cases, convicted in one case and three cases are under trial, in which petitioner has been granted bail, however, he could not furnish the bail bonds.

I have heard learned counsel for the parties and perused the record.

In view of the custody period undergone by the petitioner, it is apposite to refer to a few judgments of Hon'ble Supreme Court in this

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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.5187 of 2021	10.11.2021	Kulwant Singh Vs. The State of Punjab	More than 2 years
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 Gurjarat	About 2 years
Special Leave to Appeal (Crl.) No.7840 of 2022	31.10.2022	Shahjad Vs. The State of Uttar Pradesh	About 2 years

Keeping in view the custody of the petitioner, which is 02 years 02 months and 27 days; investigation is complete; challan has been presented; charges have been framed and trial is likely to take a considerable time, however, without commenting upon the merits of the

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case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions: -

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

The petition stands disposed off accordingly.

15.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No