

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

CRM-M-10566-2022 (O&M)
Date of Decision:- 10.01.2024

Bohar Singh ... Petitioner
Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jashandeep Singh Sandhu, Advocate,
for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab.

FIR NO.	DATE	POLICE STATION	OFFENCES
95	11.07.2021	Khuian Sarwar, District Fazilka	15/61/85 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 allegations in nutshell are that the petitioner was found in possession of 4 bags of ‘Poppy Husk’ weighing 25 kgs each totaling 100 kgs.
3. It has been submitted by learned counsel that he has falsely been implicated in the present case. It has further been submitted that trial is proceeding at snail’s pace and despite the fact that the petitioner has been behind bars since the last about 2 years, 4 months and 28 days, no progress has been made in the trial till date. Learned counsel also submits that the petitioner otherwise has a clean record and is not involved in any other case under NDPS Act.

4. Opposing the petition, learned State counsel has submitted that it is a case of recovery of ‘commercial quantity’ of ‘Poppy Husk’ and as such the fetters imposed by Section 37 of NDPS Act would be attracted. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 2 years, 4 months and 28 days and is not involved in any other case. It has also been informed that as on date only 3 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 (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

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. Without commenting anything as regards the merits of the case of the prosecution but having regard to the long custody of the petitioner and the fact that there has been no progress in the trial inasmuch as only 3 out of cited 14 PWs have been examined till date, further detention of the petitioner who otherwise has a clean record and is around 60 years old, would not be justified. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. 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.

10.01.2024
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(GURVINDER SINGH GILL)
JUDGE

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