

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

(I)	CRM-M-10583-2023 (O&M) Date of Decision:- 26.02.2024	
Sudhir Kumar		... Petitioner
	Versus	
State of Punjab		... Respondent
(II)	CRM-M-19834-2023 (O&M)	
Dileep Kumar		... Petitioner
	Versus	
State of Punjab		... Respondent
(III)	CRM-M-36317-2023 (O&M)	
Sunil Kumar		... Petitioner
	Versus	
State of Punjab		... Respondent
(IV)	CRM-M-38036-2023 (O&M)	
Prince		... Petitioner
	Versus	
State of Punjab		... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjeev Gupta, Advocate, for the petitioner
in CRM-M-10583-2023.

Mr. Gaurav Rana, Advocate for the petitioners
in CRM-M-19834-2023.

Mr. Yashpal Thakur, Advocate, for the petitioners
in CRM-M Nos.36317 & 38036 of 2023.

Mr. Gauravdeep Singh Dhaliwal, AAG, Punjab.

FIR NO.	DATE	POLICE STATION	OFFENCES
119	09.10.2021	Mulepur, District Fatehgarh Sahib	22-C, 29, 61, 85 of NDPS Act

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned four petitions wherein petitioners Sudhir Kumar, Dileep Kumar, Sunil Kumar and Prince, seek grant of regular bail in respect of aforementioned FIR.
2. The case of the prosecution, in nutshell, is that on 9.10.2021 at about 12.30 p.m. when a police party was patrolling in the area of Bus Stop Village Jakhowali, then a secret information was received to the effect that Sudhir Kumar indulges in sale of intoxicant tablets, capsules and injections and supplies contraband in village Mulepur and Mohra Mohare. The information was further to the effect that even on the given day said Sudhir Kumar was proceeding from Rajpura towards village Mulepur and Mora Mori in a vehicle bearing registration No. DL-9CAS-1399, so as to supply intoxicants.
3. Pursuant to receipt of said information barricades were laid. The police was able to intercept the aforesaid car driven by Sudhir Kumar.

The search of the car led to recovery of 240 bottles of Corex (100 ML) and 1000 intoxicant capsules containing 'Tramadol'. It is further the case of prosecution that during the course of interrogation, petitioner-Sudhir Kumar disclosed the names of Prince, Dileep Kumar and Sunil Kumar and from whose possession also huge quantity of contraband was recovered.

4. It has been submitted by learned counsel that the petitioners have 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 petitioners have been behind bars since the last about 2 years and 4 months, no progress has been made in the trial till date. Learned counsel also submits that the petitioners otherwise have a clean record and are not involved in any other case under NDPS Act.
5. Opposing the petitions, learned State counsel has submitted that it is a case of recovery of 'commercial quantity' of intoxicants and as such the fetters imposed by Section 37 of NDPS Act would be attracted. Learned State counsel has however, informed that the petitioners as on date have been behind bars since the last about 2 years and 4 months and are not involved in any other case. It has also been informed that as on date only 3 out of cited 26 PWs have been examined.
6. This Court has considered rival submissions.
7. Since the petitioners seek 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

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. Without commenting anything as regards the merits of the case of the prosecution but having regard to the long custody of the petitioners and the fact that there has been no progress in the trial inasmuch as only 3 out of cited 26 PWs have been examined till date, further detention of the petitioners who otherwise have a clean record, would not be justified. The petitions, as such, are accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
10. It is, however, directed that in case the petitioners are 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.
11. A photocopy of this order be placed on the connected cases.

26.02.2024
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No