

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-10693-2024 (O&M)  
Date of Decision: 05.03.2024

Resham Pal @ Pale ...Petitioner  
Versus  
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Abhimanu Jangra, Advocate, for the petitioner.  
Mr. Ramender Singh Chauhan, AAG, Haryana

| FIR No. | Dated      | Police Station            | Section/s                                                                         |
|---------|------------|---------------------------|-----------------------------------------------------------------------------------|
| 437     | 17.12.2020 | Saran, District Faridabad | 22(c) & 61 of the NDPS Act and 18A, 18(c), 27 & 28 of the Drugs and Cosmetics 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 was apprehended pursuant to receipt of a secret information, while in possession of 55 injections of Leegesic Buprenorphine IP 2 ml each and 55 injections of Avil Pheniramine Maleate IP 10 ml each.
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 & 2 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 State counsel has submitted that since the petitioner was caught red handed at the spot and huge quantity of contraband was recovered from him, he does not deserve the concession of bail. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 3 years, 2 months & 17 days. Learned State counsel has also informed that the petitioner stands involved in other cases, but not under the NDPS Act.
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 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                                                                         |

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. The Hon'ble Supreme Court vide order dated 15.03.2023 passed in SLP(Criminal) No.1166/2023 titled 'Chet Ram (@ Ram Veer Vs. Union of India' has also granted bail to the accused on account of long custody, though he was also involved in another case under NDPS Act.
9. Recently, the Hon'ble Supreme Court vide order dated 04.05.2023 passed in SLP (Crl.)No.(s)3221/2023 titled 'Hasanujjaman & othes Vs. The State of West Bengal' has also granted bail to three accused in a case registered under the NDPS Act where the accused alongwith co-accused were found in possession of 115 bottles of phensedyl (100 ml. each) and had been behind bars since the last 1 year & 4 months while observing that in the absence of any criminal antecedents, there is substantial compliance of Section 37 of the NDPS Act.
10. Keeping in view the totality of the facts and circumstances of the case particularly the long custody of the petitioner i.e. about 3 years, 2 months

& 11 days and the fact that only 3 PWs out of cited 13 PWs have been examined so far, the petition merits acceptance and is hereby accepted.

11. 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.
12. 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.

**05.03.2024**

Vimal

**(GURVINDER SINGH GILL)**  
**JUDGE**

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