

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20240-2023 (O&M)
Date of Decision: 25.01.2024

Rahul Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sanjeev Kumar, Advocate
for the applicant- petitioner.

Mr. C. L. Pawar, Addl. A. G., Punjab.

FIR No.	Dated	Police Station	Section/s
133	13.04.2021	City Kharar, SAS Nagar, Punjab	Section 21 of NDPS Act (Section 29 of NDPS added later on) and Section 25 of Arms 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 along with co-accused Mohsin Ansari was apprehended pursuant to receipt of a secret information, while in possession of 1 k.g. heroin and one .315 bore pistol.
3. Learned counsel for the petitioner 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 2 years & 9 months and is not involved in any other case 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 2 years, 9 months & 13 days and that the petitioner is not involved in any other case. Learned State counsel has also informed that as on date only 3 PWs out of cited 17 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 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. 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 2 years, 9 months

& 13 days and the fact that only 3 PWs out of cited 17 PWs have been examined till date, 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.

25.01.2024

Seema

(GURVINDER SINGH GILL)
JUDGE

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