



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-2948-2024
Date of decision: 04.02.2025

Rakesh Kumar @ KechiPetitioner

versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Kamal Narula, Advocate for the petitioner.

Mr. Anup Singh, A.A.G., Punjab.

NAMIT KUMAR, J. (ORAL)

1. This petition has been filed by the petitioner under Section 439 of Cr.P.C. seeking regular bail in case FIR No.48 dated 17.03.2022 registered under Section 15 of NDPS Act, 1985 at Police Station Guru Harsahai, District Ferozepur.
2. The present FIR was registered against the petitioner and co-accused Gabbar Singh @ Gabbar and Parkash Singh on the basis of secret information received by the police party. The police party conducted raid at the place disclosed by the informant where they apprehended the petitioner and co-accused Gabbar Singh @ Gabbar and Parkash Singh with truck bearing registration No.RJ-31GB-1232. On conducting search, 70 kgs. poppy husk was recovered from the abovesaid truck by the police.
3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. The alleged recovery has already been effected which was

marginally higher than the commercial quantity as defined under the



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NDPS Act. Co-accused Parkash Singh and Gabbar Singh @ Gabbar have already been granted concession of regular bail by this Court vide order dated 08.04.2024 passed in CRM-M-6665-2024 and order dated 29.04.2024 passed in CRM-M-19680-2024, respectively. The petitioner is in custody since 17.03.2022 and has already faced incarceration for 02 years and 10 months and the trial is likely to take considerable time to conclude.

4. Learned counsel for the petitioner has referred to a judgment of the Hon'ble Supreme Court passed in ***"Satender Kumar Antil Vs. Central Bureau of Investigation and another"***, 2022(10) SCC 51, to contend that the Hon'ble Supreme Court has discussed the serious issue with regard to repeated adjournments and its effect upon the Right to Life under Article 21 of the Constitution of India. He has also referred to a latest judgment of the Hon'ble Supreme Court passed in ***Criminal Appeal No.943 of 2023 titled as "Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)"*** decided on 28.03.2023 to contend that when there is a long delay in the trial and especially when it is not the fault of the accused and in that situation even the effect of Section 37 of the NDPS Act will be diluted in the given facts and circumstances of each and every case.

5. Per contra, learned State counsel, while placing on record custody certificate has opposed the prayer for grant of regular bail to the petitioner on the ground that the truck from which the recovery was effected is registered in the name of Rani wife of the petitioner and the motorcycle recovered from the spot is also registered in the name of the petitioner. He further submits that apart from the present FIR, the



petitioner is involved in two more cases i.e. FIR No.19 dated 03.02.2021 registered under Section 15-B/61/85 of the NDPS Act at Police Station Bahavwala and FIR No.128 dated 12.09.2017 registered under Section 15/25/61/85 of NDPS Act at Police Station Guruhar Sahai, therefore, he does not deserve the concession of regular bail. However, he could not dispute the fact that the petitioner is in custody for the last more than 02 years and 10 months; investigation in the present case is complete; challan has been presented; charges have been framed; the case before the trial Court is at the stage of recording the prosecution evidence, trial may take a considerable time to conclude. He also submits that Section 25 of the NDPS Act was also added in the present FIR later on.

6. In reply, learned counsel for the petitioner submits that out of total 02 other cases, in one case i.e. FIR No.19 dated 03.02.2021, the petitioner is on bail and in second case i.e. FIR No.128 dated 12.09.2017 has already undergone the sentence.

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

8. 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 regard wherein the 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	1 year and 7 months



		Bengal	
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

9. Keeping in view the custody period of the petitioner i.e. 02 years 10 months and 13 days, the facts that investigation in the present case is complete; challan has been presented; charges have been framed; the case before the trial Court is at the stage of recording the prosecution evidence; trial may take a considerable time to conclude and co-accused Parkash Singh and Gabbar Singh @ Gabbar have already been granted concession of regular bail by this Court vide orders dated 08.04.2024 and 29.04.2024, respectively, therefore, 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. Registry to do the necessary corrections qua addition of Section 25 of NDPS Act in the petition.



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- 10. The petition stands disposed of accordingly.
- 11. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

04.02.2025
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(NAMIT KUMAR)
JUDGE

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