
(2023) 02 P&H CK 0107

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 9092 Of 2023 (O&M)

Sanju Loomba @ Sanjay Loomba

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 27-02-2023

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 21, 29, 37

Citation : (2023) 02 P&H CK 0107

Hon'ble Judges : Gurvinder Singh Gill, J

Bench : Single Bench

Advocate : Laghuinder Singh Sekhon, Luvinder Sofat

Final Decision : Allowed

Judgement

Gurvinder Singh Gill, J

1. The petitioner seeks grant of regular bail in a case registered vide FIR No. 95, dated 14.8.2020 at Police Station STF Phase IV Mohali, District SAS Nagar (Mohali), under Sections 21 and 29 of Narcotic Drugs & Psychotropic Substances Act.

2. The FIR was lodged on the basis of secret information received by the police to the effect that Sanju Loomba @ Sanjay Loomba (petitioner) and Lakhwinder Singh are going to supply 'heroin' to their customers on Tata Nexa Car bearing registration No.PB-91G-2879. Pursuant to receipt of aforesaid information, a raid was conducted at the nominated place and 530 grams of 'heroin' was recovered from the dashboard of aforesaid car, in which the accused were about to sit.

3. Learned counsel for the petitioner submits that the petitioner has been falsely 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 and 6 months and since the trial is proceeding at snail's pace, the petitioner cannot be kept behind bars for an indefinite period.

4. Opposing the petition, learned State counsel has submitted that since it is a case, wherein the petitioner was caught red-handed while in possession of 'commercial' quantity of contraband, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 2 years and 6 months. Learned State counsel has further informed that the petitioner is not involved in any other case. It has also been informed that till date 2 PWs out of the cited 15 PWs stand examined.

5. This Court has considered the rival submissions addressed before this Court.

6. In the present case, this Court finds that the recovery was effected from dashboard of the car in which the petitioner was about to sit. It is not disputed that the vehicle in question, in which the petitioner was going to sit, stands registered in the name of Sandeep Kaur wife of co-accused Lakhwinder Singh, who was also apprehended at the spot. The petitioner otherwise enjoys a clean record and is not stated to be involved in any other case neither under NDPS Act nor under any other enactment. As on date only 2 PWs out of the cited 15 PWs have been examined, which would indicate that the conclusion of trial is likely to consume time.

7. 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

8. Hon'ble Supreme Court in yet another judgment dated 25.1.2023 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. As such, in the present case also where the recovery is not strictly from the

possession of petitioner though on the basis of evidence, he may be attributed conscious possession of the same, this Court is of the opinion that provisions of Section 37 of NDPS Act at this stage can be dispensed with in the present case particularly having regard to the long custody of the petitioner i.e. more than 2 years and 6 months.

10. 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.

11. 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.