

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6977-2022

Date of decision: 01.12.2022

ANIL

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. M.S.Virk, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Anil-petitioner is seeking regular bail in the case bearing FIR No.1128 dated 08.11.2018 under Section 20 of NDPS Act, 1985, registered at Police Station Hisar Sadar, District Hisar.

Learned counsel for the petitioner contends that as per the allegations of the prosecution, 32 Kg 500 grams of Charas (sulfa) has been recovered from the possession of the petitioner and the co-accused, namely, Ram Singh which they were carrying in the car. The petitioner was driving the car and is not the owner thereof. It has been argued by the learned counsel for the petitioner that the petitioner is in custody for a period of 04 years and 20 days and is not involved in any other case. Furthermore, the co-accused, namely, Ram Singh has been granted bail in terms of order dated 22.11.2022 passed in CRM-M-13258-2022.

Learned counsel for the petitioner has sought to rely upon the decision of Supreme Court rendered in *Criminal Appeal No. 668 of 2020* titled

as *Amit Singh Moni Vs. State of Himachal Pradesh*, wherein bail has been

granted to the accused in a case pertaining to the recovery of commercial quantity, after he had completed more than 02 years and 07 months of actual custody. Furthermore, it has been argued that in SLP CrI. No. 5769 of 2022 titled as Nitish Adhikary @ Bapan Versus The State of West Bengal, decided on 01.08.2022 by the Hon'ble Supreme Court of India, the accused was granted bail in a case pertaining to recovery of commercial quantity after he had undergone custody for 01 year and 07 months and trial was at a preliminary stage. Besides, the decision rendered in SLP CrI. No. 4173 of 2022 decide on 04.08.2022 titled as Shareef Shariful Islam @ Sarif Versus The State of West Bengal, the accused was granted bail after he had suffered incarceration for a period of 01 year and 06 months and there being no likelihood of completion of trial in future.

Learned State counsel has resisted the bail application on the score that the quantity of contraband recovered in the instant case falls in the category of commercial quantity. Out of 17, 12 witnesses have been examined and 02 have been given up.

Be that as it may, the custody certificate indicates that the petitioner is in custody for a period of 04 years and 20 days. Although, out of 17, 12 witnesses have been examined. On 08.08.2022, it was submitted that 02 witnesses remained to be examined who are likely to be examined on 13.08.2022. Concededly, those 02 witnesses have not been examined till date. The similarly placed co-accused has been granted bail.

In these set of circumstances, the trial is not likely to conclude in near future. The petitioner cannot be kept in incarceration for a long period of time during the course of trial particularly when only 02 witnesses who remained to be examined are not being examined despite repeated adjournments. Even, both the witnesses have been stated to be official witnesses. The speedy trial is a

India. The similarly placed co-accused, namely, Ram Singh has been granted bail by this Court.

Considering the above and the fact that the trial is likely to consume some more time, further detention of the petitioner may not be justified. Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

01.12.2022

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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No