

KHAJAN SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rahul Sidher, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J. (ORAL)

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

Khajan Singh-petitioner is seeking regular bail in the case bearing FIR No. 28 dated 08.02.2019, under Sections 21-C of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Rattia, District Fatehabad.

Briefly, as per the allegation of the prosecution, 8800 tablets of Tramadol Hydrochloride and 4500 tablets of Alprazolam have been recovered from the possession of the petitioner.

It has been contended by the learned counsel for the petitioner that the petitioner is in custody for a period of 03 years, 02 months and 14 days, only 05, out of 16 witnesses have been examined so far and he is not involved in any other case much less under NDPS Act.

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.

Learned State counsel has resisted the application on the score that the quantity of contraband recovered in the instant case falls in the category of commercial quantity. The total weight of Tramadol Hydrochloride and Alprazolam is to the extent of 3Kg 625 grams and 540 grams respectively.

It is no doubt true that the quantity of contraband recovered in the instant case falls in the category of commercial quantity, but in the aforesaid decision of Supreme Court rendered in *Amit Singh Moni's* case (*supra*) bail has been granted to the co-accused on the ground of long incarceration and particularly when the trial was not progressing. Even in the instant case, the petitioner is in custody for a period of 03 years, 02 months and 14 days and only 05 out of 16 witnesses have been examined so far. Moreover, the petitioner is not stated to be involved in any other case much less under NDPS Act.

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.

28.04.2022
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(VIVEK PURI)
JUDGE

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