

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16563-2022 (O&M)
Date of Decision: 27.04.2022

ABISHEK SHARMA

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rajwant Singh Chahal, Advocate for the petitioner.

Ms. Ruchika Sabherwal, AAG Punjab.

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VIVEK PURI, J. (ORAL)

In pursuance of the advance notice, Ms. Ruchika Sabherwal, AAG Punjab has put in appearance on behalf of the State and has placed on record the custody certificate.

The petitioner is seeking regular bail in case bearing FIR No. 68 dated 17.06.2019 under Sections 22, 29 (Added lateron) of NDPS Act, 1985 registered at Police Station City Fazilka, District Fazilka.

Briefly, as per the allegations of the prosecution, the petitioner along with co-accused Wazir Singh was travelling on a motor-cycle and on seeing the police party they had thrown the bag from which 3400 tablets of Clovidol has been recovered. As per the report of FSL, Tramadol Hydrochloride has been found in the contents of the tablets.

Learned counsel for the petitioner contends that the petitioner is in custody for a period of 02 years, 10 months and 13 days, only 1 out of the

13 witnesses has been examined so far and the petitioner is not involved in any

other case much less under the NDPS Act. The prosecution has already availed more than 20 opportunities to produce its evidence.

Learned counsel for the petitioner has sought to rely upon the decision of Hon'ble the 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 and the total weight of Tramadol Hydrochloride tablets is to the extent of 1379 grams.

It is no doubt true that the quantity of contraband in the instant case falls in the category of commercial quantity, but in the aforesaid decision of the Hon'ble the Supreme Court rendered in ***Amit Singh Moni's*** case (supra), bail has been granted to the accused on the ground of long incarceration, particularly, when the trial was not progressing.

In the instant case, the charge was framed on 18.12.2019 and despite more than 20 opportunities, the prosecution has not been able to conclude the evidence. Even in the instant case, the petitioner is in custody for a period of 02 years, 10 months and 13 days and only 1 out of the 13 witnesses has been examined so far. Furthermore, the petitioner is not 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 making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to

his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

(VIVEK PURI)
JUDGE

27.04.2022

Janki

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No