

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20857-2021 (O&M)

Date of Decision: 28.02.2022

DALJIT SINGH @ MONU

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

Ms. Ruchika Sabherwal, AAG Punjab.

* * *

VIVEK PURI, J. (ORAL)

The custody certificate has been placed on record.

The petitioner has prayed for grant of regular bail in case FIR No. 28 dated 27.03.2017 under Section 22, 61, 85 of NDPS Act, 1985 registered at Police Station Jodhan, District Ludhiana.

Briefly, the FIR has been registered in pursuance of the recovery of 300 gms of heroin from the possession of the petitioner.

Learned counsel for the petitioner contends that the petitioner is in custody for a period of two years, 7 months and 3 days and only 4 out of 8 witnesses have been examined so far. Furthermore, the petitioner is not involved in any other case much less under NDPS Act. He has sought to rely upon the decision of the Hon'ble 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 2 years and 7 months of actual custody. Furthermore, it has also been pointed out that as per the consent statement, the petitioner was not specifically

informed that he has a “legal right” to be searched in the presence of a gazetted Officer or a Magistrate.

Learned State counsel has resisted the bail application on the score that the quantity of contraband recovered from the possession of the petitioner falls in the category of commercial quantity.

It is no doubt true that the quantity of contraband recovered from the possession of the petitioner, in the instant case, falls in the category of commercial quantity but in the aforesaid decision of the Supreme Court rendered in *Amit Singh Moni's case (supra)*, bail has been granted to the 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 2 years, 7 months and 03 days and only 4 out of total 8 witnesses have been examined so far. Moreover, the petitioner remained on interim bail for a period of more than 1½ years and there is nothing to suggest that he has misused the concession of interim bail. The custody certificate does not indicate that the petitioner is involved in any other case much less under the NDPS Act.

In these set of circumstances, 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 requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

(VIVEK PURI)
JUDGE

28.02.2022

Janki