

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No.M-28776 of 2022 (O&M)
Date of Decision: November 29, 2022**

Rajesh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Manoj Kaushik, Advocate
for the petitioner.

Ms.Ambika Luthra, Addl. Advocate General, Haryana
for the respondent-State.

ARCHANA PURI, J.

This is third petition under Section 439 Cr.P.C. for grant of regular bail filed by the petitioner in case FIR No.647 dated 10.10.2018 under Section 20 of the NDPS Act, Police Station City Bahadurgarh, District Jhajjar.

Notice of motion was issued.

Learned State counsel made appearance and filed custody certificate as well as status report.

Heard on the petition.

As per version of the prosecution, on 10.10.2018, during the course of Nakabandi, a vehicle was coming from Jhajjar side, which was intercepted and the driver of the car, disclosed his name as 'Rajesh' s/o

Manphool Yadav and on checking of the said vehicle, five gunny bags of plastic were recovered, which contained *ganja*. The driver of the vehicle failed to produce any licence or permit for carrying *ganja*. The bags were found to be containing 100 kgs. of *ganja*.

It is now submitted by learned counsel for the petitioner that petitioner is in custody for 4 years 1 month and 2 days, as per custody certificate produced by learned State counsel. Also, it is submitted by learned counsel for the petitioner that petitioner is not involved in any other case. Learned counsel for the petitioner places reliance upon **SLP (Crl.) No.5769 of 2022** titled as '*Nitish Adhikary @ Bapan vs. The State of West Bengal*', decided on **01.08.2022** by the Hon'ble Supreme Court, whereby, accused was granted bail in a case pertaining to recovery of commercial quantity, after he had undergone custody for a period of 1 year and 7 months. Besides the same, learned counsel also places reliance upon **SLP (Crl.) No.4173 of 2022**, titled as '*Shariful Islam @ Sarif vs. The State of West Bengal*', decided on **04.08.2022**, whereby, accused was granted bail after he had suffered incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in near future. Also, learned counsel has placed reliance upon **Criminal Appeal No.1293/2022**, titled as '*Md. Raja and anr. vs. The State of West Bengal*', decided on **22.08.2022**, wherein, 414 kg. of *ganja*, alleged to have been recovered from the possession of the accused and the accused had faced incarceration for four years. As such, a prayer has been made for grant of regular bail to the petitioner.

On the other hand, learned State counsel has resisted the claim

for grant of bail, on the ground that quantity of the contraband recovered in

the instant case, falls in the category of commercial quantity.

Be that as it may, the custody certificate, which has been filed by learned State counsel, reveals that that petitioner is in custody for a period of 4 years, 1 month and 2 days and is not involved in any other case. As per the status report furnished by learned State counsel, there are total 12 witnesses in the present case, out of which, 6 witnesses still remain to be examined.

Considering the aforesaid circumstances, the petitioner, as such, cannot be kept in incarceration for a long period of time, during the course of trial, particularly, when the trial is progressing at a slow pace. The right to speedy trial is a constitutional right of the petitioner, which is being hampered, on account of delay in progress of the trial.

Keeping in view the period of incarceration of the petitioner, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

(ARCHANA PURI)
JUDGE

November 29, 2022
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
No