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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34605-2022

Date of Decision: 27.10.2022

RASHID

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Parveen Sharma, Advocate for the petitioner.

Mr. Karan Garg, AAG Haryana.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 324 dated 28.06.2018 under Section 15 of NDPS Act, 1985 registered at Police Station Ganaur, District Sonipat.

Briefly, the FIR has been registered on the allegations that on 28.06.2018, the petitioner was carrying 160 Kg of poppy straw and 44 kg of doda patti in a truck.

It has been argued by the learned counsel for the petitioner that the petitioner is in custody for a period of 4 years, 3 months and 25 days and so far only 4, out of 15 witnesses have been examined. Furthermore, the petitioner is not involved in any other case. Learned counsel for the petitioner has relied upon the decisions of Hon'ble the Supreme Court of India 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 (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 of India, the accused was granted bail in a case pertaining to the recovery of commercial quantity after he had undergone custody for a period of 1 year and 7 months and trial was at a preliminary stage, as only 1 witness had been examined and the accused was not having criminal antecedents. Besides, in a decision rendered in **SLP (Crl.) No. 4173 of 2022**, decided on 04.08.2022 titled as **Shariful Islam Vs. Sarif Vs. The State of West Bengal**, the 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.

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.

Be that as it may, the custody certificate indicates that the petitioner is in custody for a period of 4 years, 3 months and 25 days and is not involved in any other case. So far only 4 out of 15 witnesses have been examined. The petitioner 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 speedy trial is a constitutional right provided to an accused under article 21 of the Constitution of India.

Keeping in view the period of incarceration, sufficient grounds are made out to extend the concession of bail to the petitioner. 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.

27.10.2022

Janki

**(VIVEK PURI)
JUDGE**

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