

CRM-M-43080-2022

Date of Decision: 27.10.2022

ANIKET ALIAS ANKIT

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. R.S.Waraich, Advocate for the petitioner.

Mr. M.S.Nagra, AAG Punjab.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 56 dated 04.07.2019 under Sections 21/29/61/85 of the NDPS Act, registered at Police Station Daresi, District Ludhiana.

Briefly, as per the allegations of the prosecution, on 04.07.2019, the petitioner along with the co-accused Raman Kumar was apprehended while travelling on a scooter bearing registration No. PB-10GT-2237 and 560 gms of heroin was recovered from a black coloured polythene bag kept in the diggi of the Activa.

It has been argued by the learned counsel for the petitioner that the petitioner is in custody for a period of 3 years, 3 months and 22 days and so far only 1, out of 17 witnesses has 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.

It has been further argued that the petitioner is neither the owner nor was the driver of the scooter from which the contraband was recovered.

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 3 years, 3 months and 22 days and is not involved in any other case. So far only 1, out of 17 witnesses has been examined. Furthermore, the petitioner is neither the owner nor driver of the scooter from which the recovery has been effected. Although, the earlier application for bail was dismissed by a speaking order in terms of the order dated 04.01.2021 but a period of more than 1 year and 10 months

has elapsed and the trial is not progressing. 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.

As such, sufficient mitigating circumstances 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