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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CRM-M-43982-2020(O&M)

Date of decision: 23.05.2022

MALKEET SINGH

...APPLICANT/PETITIONER

VERSUS

UNION OF INDIA

...RESPONDENT

2) CRM-M-38303-2020(O&M)

SANDEEP SINGH @ SIPU

...PETITIONER

VERSUS

NARCOTICS CONTROL BUREAU,
CHANDIGARH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Kamal Narula, Advocate
for the petitioner in CRM-M-43982-2020.

Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner in CRM-M-38303-2020.

Mr. Sanjay Vashisth, Sr. Panel Counsel
for respondent-UOI

VIVEK PURI, J. (ORAL)

CRM-19311-2022

This is an application for placing on record the test report dated
15.01.2020 as Annexure P-3.

CRM application is disposed of and Annexure P-3 is taken on record.

Registry to tag the same at the appropriate place.

CRM-M-43982-2020 and
CRM-M-38303-2020

Malkeet Singh and Sandeep Singh @ Sipu-petitioners are seeking
regular bail in the case bearing FIR No.62 dated 26.10.2019 under Sections 8/15/

21/22/29 of NDPS Act, 1985, registered at Police Station RPF, Bathinda Junction, NCB, Chandigarh.

Briefly, the allegations against the petitioners are to the effect that on 26.10.2019, they were intercepted by the RPF officials at platform No.5 at Railway Station, Bathinda. 5800 tablets of Tramadol were recovered from the bag being carried by Malkeet Singh and 5000 tablets of Tramadol along with 1.7 Kg of Poppy straw were recovered from the bag being carried by Sandeep Singh @ Sipu. The investigation of the case was taken up by Narcotics Control Bureau, Chandigarh.

Learned counsel for the petitioners contend that both the petitioners are in custody for a period of 02 years, 06 months and 21 days and not involved in any other case much less under NDPS Act. Furthermore, out of 18, no witness has been examined till date.

Learned counsel for the petitioners have sought to rely upon the decision of 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 Senior Standing counsel for Union of India has resisted the application on the score that the quantity of contraband recovered in the instant case falls in the category of commercial quantity. Furthermore, the delay in the trial is on account of pendency of an application under Section 193 Cr.P.C for summoning of three additional accused.

It is no doubt true that the quantity of contraband recovered in the instant case falls in the category of commercial quantity, but in the aforesaid

decision of Supreme Court rendered in ***Amit Singh Moni's*** case (***supra***) bail has

been granted to the co-accused on the ground of long incarceration and particularly when the trial was not progressing. Even in the instant case, the petitioners are in custody for a period of 02 years, 06 months and 21 days and no witness has been examined so far. Merely, because some additional accused have been sought to be summoned, it cannot be termed to be a circumstance to further detain the petitioners in custody. In these set of circumstances, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioners.

Considering the above and the fact that the trial is likely to consume some more time, further detention of the petitioners may not be justified. Therefore, without expressing any opinion on the merits of the case, the instant petitions are allowed. The petitioners are ordered to be released on bail on their furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petitions are allowed accordingly.

23.05.2022
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(VIVEK PURI)
JUDGE

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