

SUKHPAL SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. AG, Punjab.

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Sukhpal Singh-petitioner is seeking regular bail in the case bearing FIR No. 238 dated 23.10.2019 under Sections 22/25/29 of NDPS Act, 1985, registered at Police Station Raman Bathinda, District Bathinda.

Briefly, the case has been registered on the allegations that on 23.10.2019, the petitioner along with the co-accused, namely, Gurjit Singh were spotted while coming on a motorcycle. On seeing the police party, the occupants of the motorcycle got scared and motorcycle tilted due to imbalance. The carton kept in between the persons fell on the ground from which 5000 intoxicant tablets were recovered. Gurjit Singh, the co-accused was driving the motorcycle.

Learned counsel for the petitioner contends that the petitioner is neither the driver nor the owner of the motorcycle. The petitioner is in custody for a period of 02 years, 05 months and 29 days and is not involved in any other case.

Learned counsel for the petitioner has 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 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. Out of 14, only 04 witnesses have been examined.

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, out of 14 only 04 witnesses have been examined and the petitioner has undergone incarceration for a period of almost 02 years and 06 months. Furthermore, the petitioner is neither the driver nor the owner of the motorcycle.

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

The petition is allowed accordingly.

21.04.2022
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(VIVEK PURI)
JUDGE

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