

Date of Decision: 15.02.2023.
CRM-M-2745-2022

RAJA ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CRM-M-28406-2022

MOHAN ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Atul Ravish, Advocate, for the petitioner in CRM-M-2745-2022.
Mr. Vimal Kumar Gupta, Advocate,
for the petitioner in CRM-M-28406-2022.
Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

The petitioners are seeking regular bail in the case bearing FIR No.1 dated 01.01.2019 under Sections 21 and 22 of the NDPS Act registered at Police Station Urban Estate, Rohtak.

Custody certificates have been placed on record.

Briefly, as per the allegations of the prosecution, on 01.01.2019, the petitioners alongwith Rohit were found travelling in a car and from the search thereof, 750 bottles of wincirex were recovered.

Learned counsel for the petitioner-Raja contends that though the petitioner is involved in two other cases under the NDPS Act but he is on bail in both the cases.

Custody certificate indicates that the petitioner is not on bail in the case bearing FIR No. 293 dated 19.08.2018 under Sections 21, 22 © and 27 of the NDPS Act registered at Old Sabji Mandi, Rohtak.

Learned counsel for the petitioner has placed on record copy of order dated 14.02.2019 passed in CRM-M-40991-2018 which indicates that the petitioner has been granted pre-arrest bail in the said case.

Learned counsel for the petitioner-Mohan contends that though the petitioner is involved in two other cases but is on bail on those cases and he is not involved in any other case under the NDPS Act.

Learned counsel for both the petitioners further contend that the petitioners are in custody for a period of 04 years and 1½ months and only 03 out of 14 witnesses have been examined so far.

Learned counsel for the petitioners have 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 opposed the bail application on the score that the quantity of contraband recovered in the instant case falls in the category commercial quantity and the petitioners are involved in two other cases.

It may be mentioned here that the petitioners are in custody for a period of 04 years and 1½ months and so far only 03 out of 14 witnesses have been examined. The charge is stated to have been framed on 29.07.2019. The period of more than 3½ years has elapsed since the date of framing of charge. The petitioners cannot be kept in incarceration for a long period of time, particularly, because the trial is not progressing and they are in custody for a period exceeding 04 years. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India.

In these set of circumstances, the ends of justice will meet, if the petitioners are extended the concession of bail. Accordingly, without making any observation on the merits of the case, both the petitions are allowed and petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

15.02.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No