

209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6115-2022

Date of Decision: 14.02.2023.

SAUDAGAR

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Rohit Rattewal, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in the case bearing FIR No. 68 dated 02.08.2019 under Section 22 of the NDPS Act and Section 29 of the NDPS Act added later on, registered at Police Station City Banga, District SBS Nagar.

Custody certificate has been placed on record.

Learned counsel for the petitioner contends that as per the allegations of the prosecution, 15 injections of Buprenorphine were recovered from the co-accused Mandeep Singh @ Honey and 15 injections of Buprenorphie were recovered from the *diggi* of the motorcycle being driven by the petitioner. The co-accused, Mandeep Singh @ Honey, who was also travelling on the motorcycle, has been granted bail by this Court in terms of the order dated 29.10.2019 passed in CRM-M-42473-2019 (Annexure P-3). The petitioner is in custody for a period of 03 years, 06 months and 16 days and not involved in any other case. 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 opposed the bail application on the score that the quantity of contraband recovered in the instant case falls in the category commercial quantity and only 01, out of 14 witnesses has been examined in the instant case.

It has not been disputed that the charge was framed as back as on 18.12.2022 and till date, only one witness has been examined. The petitioner cannot be kept in incarceration for a long period of time, particularly, because the trial is not progressing and he is in custody for a period of 03 years, 06 months and 16 days. 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 petitioner is extended the concession of bail. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

14.02.2023
smriti

(VIVEK PURI)
JUDGE

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