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2023:PHHC:054709

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Date of Decision: 19.04.2023.
CRM-15101-2023 in/and
CRM-M-6579-2023**

AJAY

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CRM-M-10889-2021

KAMAL ALIAS BHOLU

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. S.S.Duhan, Advocate
for the petitioner in CRM-M-6579-2023.

Mr. Kawalpreet Singh Virk, Advocate
for the petitioner in CRM-M-10889-2021.

Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

CRM-15101-2023 in CRM-M-6579-2023

1. This is an application for correction of date of FIR No. 179 from dated 18.08.2022 to 18.08.2020 in the head note and prayer clause of the petition.
2. Perusal of the petition indicates that the date has been corrected in the head note and the same is required to be corrected in the prayer clause.
3. The date of FIR No. 179 from dated 18.08.2022 to 18.08.2020 be corrected in the prayer clause.
4. Registry to do the needful.
5. Application is disposed of.

6. Ajay and Kamal @ Bhola-petitioners are seeking regular bail in the case bearing FIR No. 179 dated 18.08.2020 under Sections 20/61/85 of the NDPS Act (Section 27-A of the NDPS Act added subsequently in CRM-M-6579-2023) registered at Police Station Julana, District Jind.

7. Custody certificates have been placed on record.

8. Briefly, as per the allegations of the prosecution, the petitioners were apprehended while travelling in a vehicle bearing registration No. HR57A-1866 and 270 kgs of ganja patti have been have been recovered from their possession.

9. Learned counsel for the petitioners contend that the arrest of the petitioners was effected on 18.08.2020 and they are in custody for a period of about 02 years and 08 months. Furthermore, they are not involved in any other case. The charge was framed as back as on 24.03.2021 and out of 23, only 07 witnesses have been examined. 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. Furthermore, the decision in in SLP Criminal No.6690-2022, it has been held that in the absence of criminal antecedents and long incarceration, the condition under Section 37 of the NDPS Act can be dispensed with and moreso, when the trial is not progressing.

10. 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 of commercial quantity and out of 23, 07 witnesses have been examined and 03 witnesses have been given up.

11. Be that as it may, 13 witnesses still remain to be examined. The petitioners are in custody for a period of 02 years and 08 months. The charge was framed as back as on 24.03.2021. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India.

12. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioners. Accordingly, without making any observation on the merits of the case, the present 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.

19.04.2023
smriti

(VIVEK PURI)
JUDGE

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