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2023 : PHHC : 085624

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

**CRM-M-11803-2023
Date of Decision: 07.07.2023**

DARSHAN SINGH

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. J.S.Sandhu, Advocate for the petitioners.

Mr. Ranvir Singh Arya, Addl. AG Haryana.

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VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 209 dated 01.08.2021 under Section 22(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Kalanwali, District Sirsa.
2. Custody certificate has been taken on record.
3. Briefly, the FIR has been registered in pursuance of the recovery of 750 tablets of Tramadole Hydrochloride from the conscious possession of the petitioner.
4. Learned counsel for the petitioner contends that the petitioner is in custody for a period of 01 year, 09 months and 12 days. He is suffering from serious health issue and he has suffered paralytic stroke. The petitioner was granted interim bail and there is nothing on record to indicate that he had misused the concession of interim bail.
5. 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 as 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 @ 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.

6. Learned State counsel submits that the quantity of contraband recovered in the instant case falls in the category of commercial quantity as the total weight of the recovered Tramadol Hydrochloride tablets is to the extent of 375 grams and he is a convict in another case under NDPS Act. Besides, he is also facing trial in another case under NDPS Act. Out of 13, only 2 witnesses have been examined so far.

7. It is significant to note that the custody certificate taken on record indicates that the petitioner was involved in 2 other cases under NDPS Act and has been acquitted in both the cases. Custody certificate does not indicate that the petitioner has been convicted or undertrial in any other case. It shall not be out of place to mention here that in terms of the order dated 02.06.2023, the petitioner was granted interim bail and the order reads as under:-

“1. This is an application for interim bail filed on behalf of the applicant/petitioner during the pendency of regular bail.

2. It has been submitted that the applicant/petitioner is suffering from serious health issues. He has suffered paralytic stroke and having serious health issues with his eye sight and limb. At the earlier instance, the applicant/petitioner was granted interim bail in terms of the order dated 18.04.2023 till 09.05.2023. Thereafter, the applicant/petitioner had surrendered before the jail authorities but his condition has not improved.

3. Short reply by way of affidavit of Mohan Singh, Deputy Superintendent of Prison, District Prison Sirsa has been placed on record.

4. The medical report is indicative of the fact that the applicant/petitioner is admitted in jail hospital and is bedridden. It has been further reported that he is unable to carry on his daily activities himself, requires helper and also required post stroke care.

5. In these set of circumstance, the applicant/petitioner is

granted interim bail till 07.07.2023, subject to the condition that he shall furnish bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

6. Application is allowed.”

8. Learned counsel for the petitioner further submits that the ailment being suffered by the petitioner is still persisting and furthermore, he is still confined to bed.

9. In the instant case, the petitioner is in custody for a period of 01 year, 09 months and 12 days and out of 13, only 2 witnesses have been examined till date. The petitioner cannot be kept in incarceration for a long period of time during the course of trial, particularly, because the trial is not progressing and he is in custody for a period of more than 1-1/2 years. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India.

10. Keeping in view the entire circumstances and more particularly, the health condition of the petitioner, he is admitted on bail. As the petitioner is on interim bail, he is directed to furnish fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court within a period of two weeks.

11. The petition is allowed.

07.07.2023

Janki

**(VIVEK PURI)
JUDGE**

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