205/2 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

Date of Decision: 19.01.2023

1. **CRM-M-10892-2020 (O&M)**

RAJEEV DUGGAL **... PETITIONER**

V/S

UNION OF INDIA **... RESPONDENT**

2. **CRM-M-41810-2020 (O&M)**

GURPREET SINGH **... PETITIONER**

V/S

NARCOTICS CONTROL BUREAU **... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. L.S.Sekhon, Advocate for the petitioner
in CRM-M-10892-2020.

Mr. Lavanya Gupta, Advocate for
Mr. C.S.Bakhshi, Advocate for the petitioner
in CRM-M-41810-2020.

Mr. Rajiv Sharma, Advocate and
Ms. Sharmila Sharma, Sr. Panel Counsel for UOI/NCB.

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VIVEK PURI, J. (ORAL)

This order shall dispose of CRM-M-10892-2020 and CRM-M-41810-2020.

The petitioners are seeking regular bail in case NCB Crime No. 55 dated 14.10.2019 under Sections 8, 20, 25, 27(A), 29 & 60 of Narcotic Drugs and Psychotropic Substances Act, registered at Police Station NCB

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Chandigarh (Sub Zone Amritsar).

Custody certificates have been taken on record.

Briefly, the case has been registered in pursuance of the recovery of 3.110 Kg of charas from the car in which the petitioners along with the co-accused were travelling.

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 counsels for the UOI have 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 as such, stringent provisions of Section 37 of NDPS Act are attracted in the instant case.

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It may be mentioned here that the petitioners are in custody for a period of 3 years, 3 months and 4 days. It has not been disputed that even the charge has not yet been framed. Rajeev Duggal, petitioner is not involved in any other case. Gurpreet Singh, petitioner, though involved in 2 other cases but is not involved in any other case under NDPS Act.

The petitioners cannot be kept in incarceration for a long period of time during the course of trial, particularly, because the trial is not progressing and are in custody for a period exceeding 3 years, 3 months. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India.

As such, the ends of justice will meet if the concession of bail is extended to the petitioners. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petitions are allowed.

19.01.2023 (**VIVEK PURI**)
Janki **JUDGE**

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

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