

CRM-M-16340-2021 (O&M) - 1 - 2023 : PHHC : 070405

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16340-2021 (O&M)

Date of Decision: 16.05.2023

GURPREET SINGH @ BOORA & ANOTHER ... PETITIONERS

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mrs. Rana Ghuman, Advocate for the petitioners.

Ms. Ruchika Sabherwal, DAG Punjab.

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VIVEK PURI, J. (ORAL)

1. The petitioners are seeking regular bail in case bearing FIR No. 212 dated 18.09.2019 under Sections 15/22 of Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Nathana, District Bathinda.

2. Custody certificates have been placed on record.

3. Briefly, as per the allegations, both the petitioners along with co-accused Lakhvir Singh were travelling in a car and were found to be in possession of 1200 tablets of Tramadol and 20 Kg of poppy husk.

4. Learned counsel for the petitioners contend that the petitioners are in custody for a period of 2 years and 6 months and not involved in any other case. So far out of 11, only 1 witness has been examined in the Trial Court.

5. Learned 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. In **SLP No. 6690 of 2022** titled as **Dheeraj Kumar Shukla vs. State of Uttar Pradesh**, it was held that in the absence of criminal antecedents and the fact that the accused was in custody for the last 2½ years, the conditions of Section 37 of the Act can be dispensed with, moreso, when trial has not commenced.

6. 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. However, it has not been disputed that though the charge was framed as back as on 08.03.2021 but till date only 1 witness has been examined.

7. In the instant case, the charge was framed as back as on 08.03.2021 and despite lapse of period of more than 2 years, out of 11 only one witness has been examined. The petitioners are in custody for a period of 2

years and 6 months and not involved in any other case. The custody

certificates also indicate that the petitioners remained on interim bail for a period of more than 1 year. There is nothing to indicate that the petitioners had, in any manner, misused the concession of interim bail. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India.

8. As such, sufficient mitigating circumstances are made out and the ends of justice will meet, if the petitioners are extended the concession of bail. 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 fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

9. The petition is allowed.

16.05.2023

Janki

(VIVEK PURI)
JUDGE

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