

2023:PHHC:063370

**106+206 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-19277-2023 in/and

CRM-M-18318-2022

Date of Decision: 03.05.2023

JASWINDER KAUR

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Karan Garg, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

CRM-19277-2023

1. This is an application for interim bail.
2. Learned counsel for the applicant/petitioner seeks to withdraw the present application.
3. Dismissed as withdrawn.

CRM-M-18318-2022

4. The petitioner is seeking regular bail in the case bearing FIR No. 61 dated 08.06.2020 under Section 22 of the NDPS Act registered at Police Station Nandgarh, District Bathinda.
5. Custody certificate has been placed on record.
6. Learned counsel for the petitioner contends that as per the allegations, 2100 tablets of Tramadol have been allegedly recovered from the possession of the petitioner. Tarsem Singh, co-accused, slipped away from the spot and subsequently, he has been granted pre-arrest bail. The petitioner is in custody for a period of 02 years, 10 months and 24 days and not involved in any other case. So far, out of 11, only one witness has been

examined and four witnesses have been given up. The petitioner is aged about 66 years and a patient of hepatitis and also suffering from other age related diseases. Learned counsel for the petitioner has relied upon the decision rendered in SLP Criminal No.6690-2022, wherein, the bail was granted to an accused having no criminal antecedents after he remained in custody for 2½ years and it was observed that conditions of Section 37 of the NDPS Act can be dispensed with particularly when the trial is yet to commence though the charges have been framed.

7. Learned State counsel, on the instructions from ASI Jagdeep Singh, submits that the charge was framed on 02.02.2021 and further submits that out of 11, till date, only one witness has been examined and four witnesses have been given up. It has been further submitted that two earlier applications filed by the petitioner have been dismissed by speaking order. She further contends that in the instant case 862.6 gram of Tramadol has been recovered from the conscious possession of the petitioner which falls in the category of commercial quantity.

8. It is significant to note that the two earlier applications for bail have been dismissed in terms of the orders dated 26.02.2021 and 03.09.2021. The charge was framed as back as on 02.02.2021 and till date only one witness on behalf of the prosecution has been examined. A period of more than 1½ years has elapsed from the date of dismissal of the earlier applications. The lapse of time and non-examination of the witnesses provide sufficient change of circumstances to extend the concession of bail to the petitioner. The petitioner is a female, aged about 66 years and is in custody for a period of about 02 years, 10 months and 24 days and is not involved in any other case. The petitioner cannot be kept in incarceration for

a long period of time particularly when trial of the case is not progressing.

The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India.

9. In these set of circumstances, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any comment on the merits of the case, the ends of justice will meet, if the petitioner is granted concession of regular bail. It is ordered that the petitioner be released on bail subject to her furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

03.05.2023

smriti

(VIVEK PURI)

JUDGE

Whether speaking/reasoned

Whether Reportable

: Yes/No

: Yes/No