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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24714-2021
Date of decision: 22.03.2023

HAPPY

VERSUS

...PETITIONER

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S.Gill, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. AG, Punjab.

VIVEK PURI,J. (ORAL)

Short reply by way of affidavit of Navneet Kaur, PPS, Deputy Superintendent of Police, Sub-Division Budhlada, District Mansa and custody certificate of the petitioner on behalf of the respondent-State have been filed and the same are taken on record.

Happy-petitioner is seeking regular bail in the case bearing FIR No.83 dated 28.05.2020 under Section 22 of NDPS Act, registered at Police Station Sadar Budhlada, District Mansa.

Briefly, as per the allegations of the prosecution, the petitioner along with the co-accused, namely, Lakho Kaur were travelling in a car from which 4,000 tablets of Tramadol Hydrochloride have been recovered.

Learned counsel for the petitioner contends that the petitioner is in custody for a period of 02 years, 09 months and 25 days, the co-accused, Lakho Kaur has been granted bail, the petitioner is not involved in any other case under NDPS Act and so far, only 04 out of 13 witnesses have been examined.

On instructions from ASI Sukhjinder Singh, learned State counsel has not disputed the aforesaid factual aspects but has opposed the bail application on

the score that the petitioner is the owner and driver of the vehicle from which the

contraband has been recovered which falls in the category of commercial quantity.

Learned counsel for the petitioner has sought to rely upon the decision of Supreme Court 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 CrI. No. 5769 of 2022 titled as Nitish Adhikary @ Bapan Versus 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 recovery of commercial quantity after he had undergone custody for 01 year and 07 months and trial was at a preliminary stage, as only 1 witness has been examined and the accused was not having criminal antecedents. Besides, the decision rendered in SLP CrI. No. 4173 of 2022 decide on 04.08.2022 titled as Shareef Shariful Islam @ Sarif Versus The State of West Bengal, the accused was granted bail after he had suffered incarceration for a period of 01 year and 06 months and there being no likelihood of completion of trial in future. Furthermore, the decision in SLP Criminal No.6690-2022, the accused was granted bail in a case of recovery of commercial quantity of Ganja. It was observed that the absence of criminal antecedents and considering the custody of two and half years, the condition under Section 37 of NDPS Act can be dispensed with.

In the instant case, the co-accused is on bail. The petitioner is in custody for a period of 02 years, 09 months and 25 days. As per the custody certificate, the petitioner is involved in another case under Punjab Excise Act but the learned counsel for the petitioner contends that the he is on bail in that case.

So far, only 04 out of 13 witnesses have been examined and the conclusion of

trial is likely to take sometime. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India. As such, sufficient mitigating circumstances are made out and ends of justice will meet, if the petitioner is extended the concession of bail.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

22.03.2023

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(VIVEK PURI)
JUDGE

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