

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24168-2022
Date of Decision: 16.02.2023

MANDEEP SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

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

Mr. M.S.Nagra, AAG Punjab.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 81 dated 28.05.2020 under Section 22/29 of NDPS Act, registered at Police Station Nehiawala Bathinda, District Bathinda.

Custody certificate has been taken on record.

Briefly, the allegations against the petitioner are with regard to the recovery of 1050 tablets of Tramadol.

Learned counsel for the petitioner contends that the petitioner is in custody for a period of 2 years, 8 months and 16 days and not involved in any other case.

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.

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. It has been further submitted that out of 16, till date 2 witnesses have been examined.

It may be mentioned here that the petitioner is in custody for a period of 2 years, 8 months and 16 days and not involved in any other case. Out of 16, 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. 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 to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the

petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

16.02.2023

Janki

(VIVEK PURI)
JUDGE

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