

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 25.01.2023
CRM-M-21698-2020

GURINDER PAL SINGH ... PETITIONER
VS.
UNION OF INDIA .. RESPONDENT

CRM-M-29342-2020

ATLAF ... PETITIONER
VS.
UNION OF INDIA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. S.P.S. Khaira, Advocate
for the petitioner in CRM-M-21698-2020.

Mr. Farukh Abdullah, Advocate
for the petitioner in CRM-M-29342-2020.

Ms. Puneeta Sethi, Sr. Panel Counsel for UOI.

VIVEK PURI, J.

The petitioners are seeking regular bail in the case bearing complaint/crime No.6 dated 16.01.2020 under Sections 8/20/25/29 & 60 of the NDPS Act, registered at Police Station NCB, Chandigarh.

Precisely, the allegations against the petitioners are to the effect that on 15.01.2022 in pursuance of the secret information, they were apprehended while travelling in a vehicle and 9.970 kg of charas was recovered from the petitioners and co-accused Mustkin.

Learned counsel for the petitioners contend that the petitioners are in custody for a period exceeding 03 years and not involved in any other case much less under NDPS Act. So far, only 04 out of 15 witnesses have been examined.

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 counsel for the respondent-UOI 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.

In the instant case, so far, only 04 out of 15 witnesses have been examined. The petitioners are in custody for a period exceeding 03 years. They 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.

In such circumstances, the ends of justice will meet if the concession of bail is extended to the petitioners. Accordingly, without making any observation on the merits of the case, both the petitions are allowed and petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

25.01.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No