

GAURAV **VERSUS** **...PETITIONER**

STATE OF PUNJAB **...RESPONDENT**

1. Custody certificate of the petitioner has been circulated today and the same is taken on record.
2. Gaurav-petitioner is seeking regular bail in the case bearing FIR No.54 dated 17.04.2021 under Sections 22 and 29 of NDPS Act, 1985 registered at Police Station Shambhu, District Patiala.
3. Briefly, as per the allegations of the prosecution, 17,000 tablets of Tramadol Hydrochloride have been recovered from the possession of the petitioner.
4. Learned counsel for the petitioner contends that the petitioner is in custody for a period of 02 years, 05 months and 23 days and is not involved in any other case under NDPS Act.
5. 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 and till date, out of 13, only 05 witnesses have been examined.

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, it has been held that in the absence of criminal antecedents and long incarceration, the condition under Section 37 of NDPS Act can be dispensed with and moreso, when the trial is not progressing.

7. In the instant case, the petitioner is in custody for a period of 02 years, 05 months and 23 days and is not involved in any other case under NDPS Act. Out of 13, only 05 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.

CRM-M-32905-2023

-3-

8. 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.
9. The petition is allowed accordingly.

12.10.2023
renubala

(VIVEK PURI)
JUDGE

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