

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34580-2023
Date of Decision:-29.08.2023

VISHAL SINGH ALIAS VISHAL KUMAR

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Prince Sharma, Advocate
for the petitioner.

Mr. Vinay Kumar Gupta, AAG, Punjab.

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KARAMJIT SINGH, J. (Oral)

1. Prayer is for grant of regular bail in case having FIR No.132 dated 11.08.2021 registered under Section 21 of NDPS Act at Police Station Patti District Tarn Taran.
2. The brief facts of the case are that 360 grams of Heroin was recovered from the possession of the petitioner by the police on 11.08.2021.
3. The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is in custody for the last more than 2 years and that the trial is not progressing ahead as till date no witness has been examined by the prosecution out of cited 12

witnesses. In support of his contentions, the counsel for the petitioner has placed reliance on **Hasanujjaman & Ors. vs. The State of West Bengal, SLP (Crl.) No. 3221 of 2023, decided on 04.05.2023**, wherein also in case of commercial quantity of contraband, the accused has been granted bail on account of the fact that he was in custody for more than 1 year and 4 months.

4. The instant petition is opposed by the State counsel, who submits that in the instant case commercial quantity of contraband was recovered from the possession of the petitioner and as such rigors of Section 37 of the Act are applicable to the present case. However, the State counsel on instructions from ASI Baljit Singh has not disputed the custody period of the petitioner and that he is having no criminal history.
5. I have considered the submissions made by counsel for the parties.
6. Admittedly, the custody period of the petitioner comes out to be more than 2 years and the trial is not progressing ahead as till date not even a single witness has been examined on behalf of the prosecution out of total 12 witnesses. Further, the petitioner is not involved in any criminal case. In the given circumstances, it will take considerable time for the trial to conclude. In view of the fact that the trial is being delayed, the embargo provided in Section 37 of the Act can be diluted to an extent and the petitioner can be enlarged on bail keeping in view the right to a speedy trial as mandated under Article 21 of Constitution of India.

7. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

29.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No