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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.51837 of 2023 (O&M)

Date of Decision: 17.10.2023

Harinder Singh

..... Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. Advocate General, Punjab.

Vivek Puri, J. (Oral)

1. The petitioner is seeking regular bail in the case bearing FIR No. 140 dated 14.10.2021 under Sections 21 and 22 of NDPS Act, 1985 (Sections 29, 21-B & 22-C of NDPS Act, 1985 added later on at the time of filing charge-sheet) registered at Police Station Bassi Pathana, District Fatehgarh Sahib.
2. Custody certificate filed in Court today, is taken on record.
3. At the very outset, learned counsel for the State submits that there is a typographical error in the custody certificate. The petitioner was arraigned as an accused in another case bearing FIR No.111 dated 17.07.2013 under Sections 279, 337, IPC registered at Police Station Kharar.
4. Learned counsel for the petitioner contends that as per the allegations, 1225 intoxicant tablets containing Alprazolam and 25 grams of heroin have been recovered from the possession of the petitioner. The petitioner is in custody for a period of 02 years and 04 days and is not involved in any other case. The petitioner has been acquitted in the aforesaid case bearing FIR No.111 dated 13.07.2013.

5. 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.

6. Learned State counsel has opposed the bail application on the score that the quantity of Alprazolam and the recovery of intoxicants tablets fall in the category of commercial quantity and out of 21, only 02 witnesses have been examined.

7. It is significant to note that the petitioner is in custody for a period of more than 02 years, still 19 witnesses remain to be examined and only 02 witnesses have been examined by the prosecution during the course of trial. The petitioner is not involved in any other case under NDPS Act. The speedy trial is a constitutional right provided to the accused under Article 21 of the Constitution of India.

8. 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 is released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/ Chief Judicial Magistrate/ Duty Magistrate.

9. Accordingly, the petition is allowed.

17th October, 2023

Sonia Puri

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No