

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-25397-2018
Date of decision: 09.07.2018**

Vijay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sahil Khunger, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No. 211 dated 26.09.2017, under Sections 22/61/85 of the NDPS Act and Section 25/54/59 of the Arms Act (charge framed under Section 29 of the NDPS Act only), registered at Police Station Division No. 6, Police Commissionerate, Ludhiana.

Learned counsel for the petitioner submits that the petitioner is a first time offender and the FIR was registered on a secret information that one Vinod Kumar along with petitioner Vijay Kumar and Jatinder Kumar are coming in a three wheeler scooter to sell intoxicant capsules and tablets and are also having fire arm with them. The police, after recording the FIR, laid barriers and stopped the three wheeler. As per the prosecution version, a *Datar* was recovered from the petitioner, whereas 300 capsules of Spasmo Proxyvon Plus and 70 strips of Paravon Spas Plus capsules, each strip containing 10 capsules i.e. total 700 capsules and 250 tablets of Nitravet and one pistol of 315 bore along with two live cartridges were recovered

from the possession of co-accused Vinod Kumar and one knife was recovered from the possession of Jatinder Kumar.

Learned counsel for the petitioner further submits that during investigation, nothing has come on record that the petitioner was having the knowledge of conscious possession of the aforesaid recovery made from the co-accused and the trial Court, vide order dated 08.05.2018, has framed charge under Section 22 of the NDPS Act against co-accused Vinod Kumar from whom the contraband was recovered and the charge against the petitioner along with two co-accused Vinod Kumar and Jatinder Kumar is framed only under Section 29 of the NDPS Act and further charge against Vinod Kumar is framed under Section 25 of the Arms Act.

Learned counsel for the petitioner further submits that the petitioner is in judicial custody since 26.09.2017 and it will be a debatable issue whether the petitioner was part of the conspiracy while the prosecution will lead its evidence in support of the charge framed under Section 29 of the NDPS Act against the petitioner.

Custody certificate filed in the Court is taken on record. As per custody certificate, the petitioner is not involved in any other case and he has undergone 08 months and 16 days of judicial custody. Learned State counsel, on instructions from ASI Virender Singh, submits that post framing of the charge, till date, no evidence has been recorded.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that no contraband was recovered from the petitioner and he has been chargesheeted under Section 29 of the NDPS Act only; he is not involved in any other case; he is in judicial custody since 26.09.2017 and in

view of the fact that the trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

July 09, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No