

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

Criminal Misc.-M-2896 of 2020 (O&M)
Date of Decision: September 14, 2020

Vishal Malhotra @ Shanty

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kamal Chaudhary, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.31 dated 07.03.2019, under Section 22 N.D.P.S.Act, 1985, registered at Police Station, Division 4 (Lahori Gate), District Patiala. The petitioner is in custody since his arrest on 07.03.2019.

As per the allegations in the FIR, on 07.03.2019, police party was present near bus stand Batti Wala Chowk, Patiala for the purpose of patrolling and searching suspected persons. A secret information was received by the ASI that Vishal Malhotra alias Sunty son of Ramesh Kumar and Ranjit @ Sanju son of late Mohan Lal, being habitual of selling contraband tablets and were having contraband tablets and small bottles in large quantity near Hanuman Mandir, Chhoti Nadi, Purana Bishan Nagar, Patiala and waiting for customers. Believing the information, the action was taken by the police and when the police party reached near a temple, it was

found that a motor cycle was parked and the accused, namely, Vishal Malhotra alias Sunty was sitting on it and another person, namely, Ranjit Singh was standing nearby, who were talking to each other. According to the prosecution, when the accused tried to run away, the polythene containing the contraband fell on the ground. The accused were arrested and 600 bottles of Lomotil, 810 capsules of Parvon Spas and 8 bottles liquid containing Elturex-T were recovered from them.

Learned counsel for the petitioner contends that a common case was set up by the prosecution against the petitioner and his co-accused, namely, Ranjit Singh. It is pointed out that concession of regular bail was extended to Ranjit Singh vide order dated 13.12.2019 and, therefore, the petitioner also deserves the concession of regular bail. He submits that the petitioner is not involved in any other similar case and as the trial is likely to consume considerable time, therefore, the petitioner be released on bail, during the pendency of the trial.

On the other hand, learned State counsel assisted by ASI Baljinder Singh has opposed the prayer on the ground that the recovered articles would fall within the ambit of commercial quantity as described under the N.D.P.S.Act, 1985. He submits that the vehicle involved in the crime was owned by the petitioner and his case is distinguishable from the co-accused as the contraband fell from the hands of the petitioner. However, it is not disputed by him that out of total thirteen prosecution witnesses, only two have been examined, whereas the charges were framed on 31.08.2019.

Considering the above background, custody of the petitioner and the fact that the trial is likely to consume considerable time to conclude

as the country continues to be in the throes of global pandemic, namely, COVID-19 and the State Government and District Administration have also imposed various restrictions to curb its spread, this Court does not find any reason to decline the prayer. The petitioner after his arrest on 07.03.2019, is presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Patiala.

The petition is allowed.

September 14, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No