

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

(Heard through VC)

CRM-M-11830 of 2020 (O&M)
Date of Decision: December 15, 2020

Vijay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Ms. Samina Dhir, DAG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.193 dated 21.10.2019, under Sections 22 and 61 of NDPS Act, registered at Police Station Division No.2, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner *inter alia* would contend that the petitioner herein was taken into custody in the aforesaid FIR on 21.10.2019 and the trial is not proceeding. Apart from that, learned counsel for the petitioner would submit that there is a total violation of the directions as issued by the DGP Punjab dated 27.04.2015 in which it has been stated that a private vehicle should not be used for the purpose of investigation of a criminal case and if such a vehicle is hired, proper

receipts regarding hiring of the same are to be maintained as well as the details of the vehicle, name of the driver etc. is to be recorded in the case diary, which has not been done in the instant case. He would rely upon judgment rendered by the Supreme Court in *Gaunter Edwin Kircher vs. State of Goa, Secretariat, Panaji, Goa, 1993 AIR (SC) 1456* wherein, it has been held that each packet seized even for a small quantity is to be sent for analysis, which has evidently not been done in the instant case. He would also rely upon orders passed by the Coordinate Benches of this court wherein, in similar circumstances, bail has been allowed. He would also rely upon Form 29-M which would reflect that the entire contraband seized has not been sent for chemical examination.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that this is a case of chance recovery and not a case where a private car was used in the investigation of the matter, as the recovery was made at a naka. It is also submitted that one more case is pending against the petitioner.

I have heard learned counsel for the parties.

In view of the facts that the petitioner herein has been in custody since 21.10.2019; investigation is complete as the challan has already been presented and because of Covid-19 pandemic, the courts are not functioning at their full strength, as such, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate

personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

However, anything observed or said by this court is only for the purpose of deciding the instant petition for grant of regular bail and the same shall have no affect on the merits of the case.

December 15, 2020
vijay saini

(JAISHREE THAKUR)
JUDGE

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