

211 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28667-2020
Date of decision: 24.09.2020

Vikas Kumar ...Petitioner
Versus
State of Punjab ...Respondent

Coram: Hon'ble Mr. Justice Vivek Puri

Present: Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

(The case has been taken up through video conferencing on
account of Covid-19 pandemic)

Vivek Puri J. (Oral)

Through present petition, the petitioner is seeking regular bail
in case FIR No. 04 dated 26.01.2019, under Section 21 of NDPS Act, 1985,
registered at Police Station Daba, District Ludhiana.

Precisely, the allegation against the petitioner is with regard to
recovery of 270 gram heroin.

It has been contended by learned counsel for the petitioner that
weighment was carried out along with the envelop in which the contraband
was allegedly being carried. The quantity of contraband recovered from the
possession of the petitioner is marginally above the commercial quantity. It
has been further stated that the petitioner is not involved in any other case
under NDPS Act. The petitioner was arrested on 26.01.2019 and out of 21
witnesses, only 3 witnesses have been examined so far. Furthermore, the
trial of the case is getting delayed on account of restricted hearing of the

Courts due to COVID-19 Pandemic.

Learned State counsel, on instructions from ASI Gurinder Singh, has not disputed the factual aspects of the case.

In the case in hand, the quantity of the contraband recovered from the possession of the petitioner is marginally above the commercial quantity and the weighment has been stated to be carried out along with the envelop.

In such like circumstances, the rigors of Section 37 of the NDPS Act can be relaxed as it becomes debatable as to whether the quantity of contraband falls in the category of commercial quantity or not. The petitioner is in custody for the last 01 year, 07 months and 24 days. The conclusion of the trial may take some more time on account of restricted hearing of the Courts due to COVID-19 Pandemic.

In view of the aforesaid facts and circumstances of the case and without making any observation on the merits of the case, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is directed to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of Chief Judicial Magistrate/ trial Court/ Duty Magistrate concerned.

[VIVEK PURI]
JUDGE

24.09.2020
hemlata

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