

MOHAMMAD AARIF

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rishabh Gupta, Advocate
for the petitioner.

Mr. Balbir Singh Sewak, Addl. AG, Punjab.

VIVEK PURI, J. (ORAL)

Briefly, the FIR bearing No. 38 dated 26.09.2019 registered at Police Station GRP, Patiala under Sections 20 & 29 of NDPS Act, 1985 on the allegations of recovery of 5 kg of Charas was recovered from Basant Shah who had disclosed that he had brought the same from unknown person and was to be supplied to the present petitioner. Consequently, the offence under section 29 of NDPS Act was added. On 27.09.2019, the petitioner was arrested and 220 gram of Charas was recovered from him.

With regard to the allegations of recovery of 5 kg of Charas from Basant Shah it may be mentioned that the petitioner has been sought to be implicated on the basis of the confessional statement only and it becomes debatable as to whether offence under Section 29 of NDPS Act is made out or not.

However, the quantity of contraband recovered from the possession of the petitioner on 27.09.2019 i.e. 220 gram Charas falls in the category of less than commercial quantity. As such the stringent provisions of section 37 of NDPS Act do not come into play qua that recovery.

The custodial interrogation of the petitioner is over and he has been remanded in judicial custody. Petitioner is confined in jail for the last more than 4 months. The conclusion of the investigation is likely to take sometime and no fruitful purpose will be served by detaining him in custody.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

26.02.2020

renubala

(VIVEK PURI)
JUDGE

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