

202 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-656-2021

Date of Decision: 31.03.2021

GURMAIL SINGH @ GAILU
VS.

... PETITIONER

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. B.S.Kathuria, Advocate
for the petitioner.

Mr. H.S.Sullar, Deputy Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

Through instant petition, the petitioner is seeking regular bail in case bearing FIR No.250 dated 04.12.2019 under Section 15 of the Narcotics Drugs and Psychotropic Substances Act (for short the 'NDPS Act') registered at Police Station Dharamkot, District Moga.

Briefly, the aforesaid FIR has been registered on the receipt of secret information and, thereafter, in pursuance of the disclosure statement, raid was conducted in the house of the petitioner and 69 kg of poppy husk was recovered from him.

It has been argued by learned counsel for the petitioner that the quantity of contraband alleged to have been recovered from the possession of the petitioner is marginally above the commercial quantity and it is a case of house search, but no independent witness has been associated. Furthermore, no document of ownership or possession of the house in

question has been procured during the course of investigation. The police party was on a private vehicle and the case of the prosecution hinges on the evidence of official witnesses. Besides, the challan was presented as back as on 28.04.2020, but the charge has not yet been framed. Even the petitioner is not involved in any other case much less under the NDPS Act.

Custody certificate dated 28.03.2021 has been placed on record.

Learned State counsel, on instructions from ASI Surinder Pal, has not assailed the aforesaid facts, but has argued that the quantity of contraband recovered from the possession of the petitioner falls in the category of commercial quantity.

Be that as it may, it is significant to note that no independent witness has been joined at the time of search, it is a case of house search, the police party was on a private vehicle and there is no document to depict the ownership or possession of the petitioner with regard to the house from where the recovery has been effected. As such, reasonable grounds are made out which indicate that the petitioner may not be guilty of the offence and furthermore, he is not likely to commit the offence while on bail as no other case much less under the NDPS Act is registered against him. The investigation of the case is complete. The case of prosecution hinges on the the deposition of official witnesses. The charge is yet to be framed and the petitioner is in custody for the last one year, three months and twenty one days as on 28.03.2021. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

In these circumstances, the ends of justice will meet, if petitioner is extended the concession of regular bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate/Trial Court. However, the aforesaid observations have been circumscribed only for the purpose of disposal of the present bail application and shall not be construed as an opinion on the merits of the case.

31.03.2021
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No