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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16877-2021

Date of Decision: 28.04.2021

SANDEEP SINGH @ BUNTY

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Dilpreet Singh Gandhi, Advocate for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

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

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VIVEK PURI, J. (ORAL)

Petitioner has prayed for grant of regular bail in case FIR No.396 dated 03.10.2016, under Sections 21, 22 of NDPS Act, 1985, registered at Police Station A-Division, District Amritsar.

Custody certificate has been placed on record.

Briefly, as per the allegations of the prosecution, on 3.10.2016 the petitioner was apprehended by the police party while he was trying to throw a polythene envelop in the bushes after taking it out from the pocket.

It has been contended by learned counsel for the petitioner that the recovery memo is silent as to whether the recovery was effected while the contraband was being held in the hand or in the pocket and in such circumstances, the mandatory provisions of Section 50 of NDPS Act

were required to be complied with which has not been done in the instant case. Furthermore, the petitioner has undergone custody for a period of 2 years, 5 months and 5 days, the arrest of the petitioner was effected on 3.10.2016 though he remained on interim bail for some period of time and only two out of 10 witnesses have been examined so far.

Learned State counsel, on instructions from ASI Gurmeet Singh, has not disputed the aforesaid facts but has argued that the quantity of contraband i.e. Alprazolam recovered from the possession of the petitioner falls in the category of commercial quantity.

Be that as it may, in the instant case, it becomes debatable as to whether the recovery has been effected from the pocket or while the contraband was being held by the petitioner in his hand. The provisions of Section 50 of NDPS Act have not been complied with in the instant case and in such circumstances, the rigors of Section 37 of the NDPS Act can be relaxed. Moreover, it cannot be said that petitioner is likely to commit the offence while on bail as he is not involved in any other case much less under NDPS Act. Furthermore, he remained on interim bail for a period of more than two years and there is nothing to suggest that he misused the concession of interim bail at any stage. The petitioner is in custody for a period of 2 years, 5 months and 5 days, only two out of 10 witnesses have been examined so far and conclusion of trial is further likely to take some time on account of resurgence of pandemic Covid-19 and consequential restricted functioning of the Courts. As such, the ends of justice would be met if the petitioner is extended the concession of bail.

Therefore, without making 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 concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

28.04.2021

Janki

(VIVEK PURI)
JUDGE

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