

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-28745-2021 (O&M)
Date of Decision: 17.08.2021

VIVEK SHARMA

....PETITIONER

Versus

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. S.K. Choudhary, Advocate,
for the petitioner.

Mr. IPS Doabia, Addl. Advocate General, Punjab.

SANT PARKASH J.

*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court)*

CRM-23369-2021

Prayer in this application under Section 482 Cr.P.C. is for
placing on record judgment dated 19.07.2021 as Annexure P-5.

For the reasons mentioned in the application, same is allowed
and judgment dated 19.07.2021 (Annexure P-5) is taken on record,
subject to all just exceptions. Be tagged at appropriate place.

CRM stands disposed of.

Main case

The instant petition has been filed under Section 439 Cr.P.C. for
grant of regular bail to the petitioner in case FIR No.46 dated 05.06.2019,
under Section 22 of the Narcotic Drugs and Psychotropic Substances

Act, 1985 (for short' "Act") registered at Police Station Division No.II, District Pathankot.

As per the allegations in the FIR, the police party while on patrolling duty saw that the petitioner along with co-accused were coming on a white Activa scooter without number. The petitioner was driving the scooter and the co-accused of the petitioner was pillion rider. On seeing the police party, they became perplexed and the co-accused of the petitioner threw a polythene bag. On suspicion, both the accused persons were apprehended and thereafter, information was given to SHO of the police station concerned by ASI Harjinder Singh for coming at the spot and taking further action. Thereafter, when SI Somraj came at the spot, he conducted the search of the scooter in which, 1800 intoxicant tablets mark *Alprasafe 0.5* were recovered and from the bag, which the co-accused had thrown, 360 intoxicant tablets were recovered.

Learned counsel for the petitioner submits that after the information was given to the police station and SI Somraj came at the spot, no procedure prescribed under Section 50 of the NDPS Act was followed despite the fact that the police had apprehension that accused persons were having some contraband. Moreover, the co-accused of the petitioner, namely, Danial @ Nama has already been granted the concession of interim bail by this Court vide order dated 14.11.2019 passed in CRM-M-38256-2019 and the aforesaid order has been made absolute on 19.07.2021. The petitioner is in custody since 05.06.2019, therefore, the concession of bail be extended to him.

Learned State counsel though opposed the prayer made by the

petitioner but could not dispute the aforesaid facts

I have heard learned counsel for the parties and with their kind assistance, have gone through the record of case.

Keeping in view the totality of facts & circumstances of the present case and the fact that co-accused, namely, Danial @ Nama has already been granted the concession of bail; the trial of the case will take long time, no useful purpose would be served by keeping the petitioner in custody further, since he is already behind bars since 05.06.2019, the present petition is allowed.

The petitioner is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the trial court/Chief Judicial Magistrate/Duty Magistrate concerned.

**(SANT PARKASH)
JUDGE**

17.08.2021s
sonika

whether speaking/reasoned: Yes/No
whether reportable: Yes/No