

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRM-M-30966-2021**

**Date of Decision: 09.11.2021**

**MUKESH KUMAR**

**... PETITIONER**

**VS.**

**STATE OF PUNJAB**

**.. RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE VIVEK PURI**

Present : Mr. Saurav Bhatia, Advocate  
for the petitioner.

Ms. Ruchika Sabharwal, AAG, Punjab.

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**VIVEK PURI, J.(ORAL)**

Through instant petition, the petitioner is seeking regular bail in case bearing FIR No.282 dated 07.08.2019 under Section 22 of the Narcotics Drugs and Psychotropic Substances Act (for short the 'NDPS Act') at Police Station Phillaur, Jalandhar.

As per the allegations of the prosecution, 20 injections of buprenorphine and 20 injections of avil were recovered from the bag which was thrown by the petitioner.

It has been contended by learned counsel for the petitioner that initially the petitioner was apprehended by some police officials and on receipt of the information, the officer has effected the recovery on the spot. No recovery was effected from the possession of the petitioner and the bag containing contraband was never thrown by the petitioner in the presence of the officers who has effected the recovery. Moreover, the petitioner is in custody for the last two years and three months and he is not involved in any other case. Only two out of eight witnesses have been examined so far.

Custody certificate of the petitioner has been placed on record.

Learned State counsel, on instructions from ASI Bhajan Lal, has not assailed the aforesaid factual aspects, but has opposed the bail application on the score that the quantity of contraband recovered in the instant case falls in the category of commercial quantity.

It may be true that the quantity of contraband alleged to have been recovered in the instant case falls in the category of commercial quantity, but significantly the bag alleged to have been thrown by the petitioner was never thrown in the presence of the officer who conducted the search. In such circumstances, it will remain debatable as to whether the petitioner was found in conscious possession of contraband. Consequently, the rigors of Section 37 of the NDPS Act can be relaxed, particularly, because the petitioner is not involved in any other case and it cannot be said that he is likely to commit the offence while on bail. Furthermore, the petitioner has undergone incarceration of two years and three months and only two witnesses have been examined so far.

In these set of circumstances, sufficient grounds are made out to extend the concession of regular bail to the petitioner. Accordingly, the present petition is allowed and petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

**09.11.2021**  
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**(VIVEK PURI)**  
**JUDGE**

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