

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37932-2021
Date of Decision: 06.12.2021

Shaminder Singh

... Petitioner

v/s

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Ms. Harpreet Kaur, Advocate for the petitioner.
Ms. Ruchika Sabherwal, AAG Punjab.

* * *

VIVEK PURI, J. (ORAL)

Status report by way of affidavit of Ramandeep Singh Bhullar, Deputy Superintendent of Police, Sub Division Kotkapura, District Faridkot has been placed on record.

Custody certificate has also been placed on record.

The petitioner has prayed for grant of regular bail in case FIR No.63 dated 21.06.2019, under Section 15 of NDPS Act, 1985 registered at Police Station Sadar Kotkapura, District Faridkot.

Briefly, as per the allegations of the prosecution, the petitioner was driving the Canter and the co-accused Rupinder Sharma was sitting on the conductor seat. Checking was carried out and 4 bags of poppy husk, each containing 20 Kg (total 80 Kg of poppy husk) have been recovered.

It has been contended by learned counsel for the petitioner that petitioner is in custody for the last two years, 5 months and 10 days, he is not involved in any other case, joint offer was given to both the accused and as such, the mandatory provisions of Section 50 of the NDPS Act have not been complied with. Moreover, the petitioner is neither the owner nor working as driver of the Canter.

Learned State counsel has not disputed the fact that a joint non-

consent memo of both the petitioner and the co-accused was prepared and has further stated that 7 out of 15 witnesses have been examined so far. The bail application has been resisted on the score that the quantity of contraband recovered in the instant case falls in the category of commercial quantity and as per the statement of Krishan Singh, owner of the Canter, it has emerged that he has employed the petitioner as driver thereupon.

Concededly, the petitioner is not the owner of the Canter from which recovery has been made. It has been fairly stated by learned State counsel that there is no document with regard to the employment of the petitioner as driver of the Canter coming forth. A joint non-consent statement has been recorded in the instant case. As such, it becomes debatable as to whether provisions of Section 50 of the NDPS Act have been complied with or not. Moreover, the petitioner is in custody for the last two years, 5 months and 10 days and he is not involved in any other case. In such circumstances, stringent provisions of section 37 of NDPS Act can be relaxed.

Considering the above and the fact that the trial is likely to consume some time, further detention of the petitioner may not be justified. 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 fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

(VIVEK PURI)
JUDGE

06.12.2021
Janki

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