

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37915-2021 (O&M)
Date of decision: 01.12.2021

Vishal Singh @ Vicky @ Killo

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Jaidka, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.22 dated 13.03.2021 under Sections 22 & 25 of NDPS Act, registered at Police Station Sadar Jagraon, District Ludhiana.

Learned counsel for the petitioner has relied upon the order dated 26.11.2021 passed in CRM-M-48620-2021, vide which co-accused Ram Chander has been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of SI Jarnail Singh, it is stated that while on patrol duty, a secret information

was received that petitioner Ram Chander and Jaswinder Singh are doing the business of selling intoxicant tablets and are coming on a motorcycle and they can be apprehended with intoxicant tablets. Thereafter, on receiving such information, a ruqa along with a report was prepared under Section 42 of the NDPS Act and was sent to police station for registration of the FIR. Thereafter, both the accused persons were arrested and recovery was effected.

Learned counsel for the petitioner has referred to a special report, prepared under Section 42 of the NDPS Act, which bears the FIR number as well as complete details. It is submitted that the manner in which this notice has been prepared raises a suspicion as to how the FIR number has come in the ruqa, which is sent for registration of the FIR and the FIR is to be registered subsequently on receiving the ruqa.

Learned counsel further submits that the petitioner is in judicial custody for the last more than 08 months and he is not involved in any other case. It is further submitted that it will be a matter of trial whether the provisions of Section 42 of the NDPS Act were properly complied with or not.

Learned State counsel has filed the custody certificate and submitted that the notice, prepared under Section 42 of the NDPS Act, is a typed document, on which, the FIR number was filled up later on by using a pen.

Be whatsoever, after hearing learned counsel for the parties

and going through other documents including recovery memo, it is found that the FIR number is mentioned in all these documents, though they were prepared prior to registration of the FIR, therefore, it will be a matter of trial whether the provisions of Section 42 of the NDPS Act were properly complied with or not...”

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioner submits that the petitioner is in custody for the last 08 months and 17 days; he is first offender; he is not involved in any other case and the defence, as noticed in the aforesaid order, is available to the petitioner as well.

Learned State counsel, on the basis of custody certificate dated 01.12.2021 filed in the Court today, has not disputed the factual position.

Without commenting anything on merits of the case, considering the aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

01.12.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No