

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

CRM-M-36838-2020 (O&M)

Date of decision : 12.02.2021

Deepak Kumar @ Deepu

... Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Sandeep Vermani, Addl. A.G Punjab.

*(The case has been taken up through video conferencing on account
of COVID-19 Pandemic)*

VIVEK PURI, J. (ORAL)

Reply by way of affidavit of Shri Sandeep Wadehra, Assistant
Commissioner of Police, Industrial Area-B, Ludhiana has been placed on
record.

Through the present petition, the petitioner is seeking regular bail in
the case bearing FIR No. 04 dated 26.01.2019 under Section 21 of NDPS Act,
1985, registered at Police Station Daba, District Ludhiana.

Precisely, the allegations against the petitioner and the co-accused are
with regard to the recovery of 270 gms of heroin from the co-accused Vikas
Kumar.

It has been contended by learned counsel for the petitioner that during
the relevant period, the petitioner was confined in jail. No recovery has been
effected from him and he has been falsely implicated on the basis of the
disclosure statement of co-accused Vikas Kumar, who has since been released
on bail. The petitioner has been acquitted in all the other cases, which were
registered against him.

On the contrary, it has been pointed out by learned State counsel that the petitioner had facilitated the passing of contraband to Vikas Kumar through Kewal Krishan. The arrest of the petitioner was effected on 29.01.2019 and had made a confessional statement to the effect that he had a talk with Vikas Kumar about 10/11 months ago on mobile phone for getting the heroin from Kewal Krishan. It has been also stated that following four cases have been registered against the petitioner:-

- “(i) FIR No.161 dated 11.09.2016, under Section 22 of NDPS Act, P.S. Daba, Ludhiana. (Discharged on 20.12.2019)
- (ii) FIR No.287/2015, under Sections 302, 506 and 120-B IPC, P.S. Focal Point, Ludhiana. (Acquitted on 21.11.2018)
- (iii) FIR No.127/2012, under Sections 302, 506, 148 & 149 IPC and Section 25 of Arms Act, P.S. Daba, Ludhiana. (Acquitted on 07.01.2016)
- (iv) FIR No.109 dated 19.07.2012, under Sections 452, 382, 506, 148, 149 and 323 IPC, P.S. Daba, Ludhiana. (Acquitted on 08.12.2015)”

In the instant case, the recovery has been effected from Vikas Kumar co-accused, who has been granted bail in terms of the order dated 24.09.2020 passed by this Court. Furthermore, no recovery has been effected in pursuance of the confessional statement of the petitioner. The confessional statement also indicates that the talk with the co-accused took place about 10/11 months prior to the recovery. The reply also indicates that in four other cases registered against the petitioner, he has either been discharged or acquitted. However, as per the custody certificate, two cases under the Prison Act against the petitioner are still pending. Out of 21 witnesses, only 3 witnesses have been examined so far. The petitioner is in custody in the instant case for a period exceeding two years. The conclusion of the trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in custody.

In view of the aforesaid facts and circumstances of the case and without making any expression on the merits of the case, the ends of justice will meet, if the petitioner is also extended the concession of bail.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds/surety bonds to the satisfaction of the learned CJM/trial Court/Duty Magistrate concerned.

(VIVEK PURI)
JUDGE

12.02.2021
Dinesh

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No