

RUPINDER SHARMA

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. B.S.Bhalla, Advocate
for the petitioner.

Mr. Balbir Singh Sewak, Addl. AG, Punjab.

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

VIVEK PURI,J. (ORAL)

Rupinder Singh-petitioner is seeking regular bail in the case bearing 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, Shaminder Singh-co-accused was driving the Canter and the petitioner was sitting on the conductor seat. Checking of the vehicle 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 the learned counsel for the petitioner that the petitioner is in custody for the last more than two and a half years, 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. Furthermore, the petitioner is neither the owner nor working as driver of the Canter. The co-accused who was driving the Canter has been granted concession of bail by this Court in terms of order dated 06.12.2021 passed in CRM-M-

37932-2021.

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 8 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.

It has not been disputed that the petitioner is neither the owner nor driver of the Canter from which the recovery has been effected. A joint non-consent statement of the petitioner and the co-accused has been recorded. As such, it becomes debatable as to whether provisions of Section 50 of the NDPS Act have been complied with or not. The petitioner is in custody for more than two and a half years and is not involved in any other case. In such circumstances, stringent provisions of Section 37 of NDPS Act can be relaxed. The petitioner also becomes entitled to bail on the principle of parity as the co-accused who was driving the Canter has been granted concession of bail.

Considering the above and the fact that the trial is likely to consume sometime, 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.

28.01.2022
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(VIVEK PURI)
JUDGE

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