

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

210

CRM-M-5886-2022

Date of Decision: 10.11.2022

Vicky @ Laddu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Malkiat Singh, Advocate,
for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Satwinder Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.221 dated 30.12.2021 at Police Station 'C' Division, Amritsar, under Section 22/61/85 of the NDPS Act.
2. At the time of issuance of notice of motion on 11.02.2022, the following order was passed:

“Case heard via video conference.

By this petition, the petitioner seeks the concession of 'anticipatory bail', upon FIR no.221, dated 30.12.2021, having been registered at Police Station 'C' Division, Amritsar, alleging therein the commission of offences punishable under the provisions of Sections 22, 61 and 85 of the Narcotics and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). Learned counsel for the petitioner submits that though the allegations against the petitioner are that upon a disclosure statement allegedly made (in police custody) by his co-accused Rahul, 3600 intoxicant tablets were even recovered from the house of the petitioner, yet that said recovery is wholly planted with no such raid actually

conducted and there being no witnesses to such raid and consequently, simply the story of the investigating agency cannot be believed at face value.

Notice of motion.

On the asking of the Court, Mr. Sidakjmeet Singh Sandhu, AAG, Punjab, accepts notice on behalf of the respondent State. He submits that the co accused having specifically named the petitioner and a recovery having been made to such disclosure, even such disclosure statement would be admissible in evidence.

Whereas that would probably be true, yet, to determine as to whether any independent witnesses were even attempted to be joined in any such raid conducted and all procedures stipulated in NDPS Act were duly followed, a gazetted officer is directed to file a detailed reply to each paragraph of the petition, also showing compliance of Section 42 of the said Act as also other provisions, further stating as to whether any independent witnesses were joined or not; and if not the reason thereof.

It is to be observed at this stage itself that if the reply to that query of this Court is to be that no independent witnesses were willing to join, then the gazetted officer would be required to State as to why no proceedings under the provisions of Section 100(8) of the Cr.P.C have been initiated against any of such witnesses who were asked to join the alleged raid at the petitioner's house, but did not so join.

Adjourned to 21.04.2022.

In the aforesaid circumstances, at this stage at least, learned counsel for the petitioner has made out a case in the opinion of this Court to be admitted to at least interim bail even in terms of Section 37(1) (b) (ii) of the NDPS Act, the petitioner is directed to join investigation within one week and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who

would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.”

3. Learned State counsel upon instructions has informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation and is not required for any custodial interrogation. Upon an query made by this Court, learned State counsel has informed that the petitioner is not involved in any other case and that there is no such evidence like call details etc. to connect the petitioner with the co-accused.
4. Having regard to the aforestated position, wherein the petitioner is stated to have joined investigation and is not required for any custodial interrogation and otherwise has a clean record, the petition is accepted and the interim directions issued by this Court vide order dated 11.02.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

10.11.2022

Vimal

**(GURVINDER SINGH GILL)
JUDGE**

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