

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9210-2022 (O&M)
Date of Decision: May 18, 2022

VED PARKASH @ VEDU Petitioner(s)

Versus

STATE OF PUNJAB Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

LISA GILL, J.

This is petitioner's second petition seeking bail pending trial in FIR No.23, dated 05.02.2020, under Section 21 of NDPS Act, 1985, registered at Police Station Kartarpur, District Jalandhar Rural. As per allegations in the FIR, 260 grams of heroin in a silver colour polythene bag held by petitioner in his left hand was recovered.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case, which is apparent from the fact that petitioner alongwith two other persons namely Amandeep Singh and Ajaypal Singh, residents of the same area, were picked up from their houses and implicated in matters under the NDPS Act with 260 grams of heroin being miraculously recovered from each of them. Learned counsel submits that no independent witness was joined at the time of alleged search/recovery. Mandatory provisions of Section 50 of the NDPS Act, 1985 were not complied with. Learned counsel

further submits that petitioner at the first instance had filed CRM-M-15726-2020, seeking bail pending trial with alternate prayer of interim bail awaiting receipt of Chemical Examiner's report. Alternate prayer was allowed on 10.08.2020 and interim bail was afforded. Petitioner surrendered on 16.08.2021 on receipt of FSL report. Petitioner has been in custody for over 01 year and 03 months and is not involved in any other criminal case. Learned counsel for the petitioner relies upon decisions of co-ordinate Benches in ***Danish Vs. State of Punjab, 2019(3) Law Herald 2603, Sukhdev Singh @ Deba Vs. State of Punjab, 2019(1) Law Herald 28***, CRM-M-980-2021, decided on 14.01.2021 titled ***Sukhbir Singh @ Sukh @ Bhatti Vs. State of Punjab***, CRM-M-36888-2021, decided on 05.1.2022 titled ***Shubham Mehra @ Shubham Vs. State of Punjab***, CRM-M-43269-2021, decided on 28.03.2022 in ***Palwinder Singh @ Laddi V. State of Punjab*** and CRM-M-52423-2019 decided on 21.01.2021 in ***Dharminder Singh @ Fauji Vs. State of Punjab*** to submit that bail pending trial has been granted in matters where the alleged recovery was marginally over the commercial quantity. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State verifies that petitioner is not involved in any other criminal case and also verifies that petitioner has been in custody for over 01 year and 03 months and only two out of nine prosecution witnesses have been examined so far. It is indeed debatable at this stage whether mandatory provisions of Section 50 of the NDPS Act, 1985 were complied with or not. It is to be noted that a co-ordinate Bench in CRM-M-52423-2019 on 21.01.2021 allowed the concession of bail to the petitioner therein, who was found in possession of 260 grams of heroin recovered from the pocket of his trouser. In

the said case also it was found that compliance of provisions of Section 50 of the NDPS Act, was debatable at that stage. Trial in this case is not likely to be concluded in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. Petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court/Duty Magistrate.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

18.05.2022

Sunil

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

(LISA GILL)
JUDGE