

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

203

**CRM-M-11441-2022
Date of decision: 02.04.2022**

SHIVA

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 229 dated 07.10.2018 under Section 22 of NDPS Act, 1985 registered at Police Station Sadar Khanna, District Khanna, Punjab (with judicial jurisdiction in Ludhiana).

2. Learned counsel appearing on behalf of the petitioner contends that as per the FIR the police party was patrolling on a private vehicle. He has contended that the same is in violation of the policy/circular sent by the Director General of Police, Punjab dated 04.05.2015, in which it had been directed that only official vehicles were to be used with the following rider:

“(iv) A private vehicle is used for investigation of any case, the details of vehicle e.g. number, type, driver's name, and payment details shall be duly recorded in the Case Diary of the case”.

3. He has further pointed out that in the final report submitted by the respondent-officials, there is no description of the private vehicle and as such, the action of the respondents is contrary to the said policy/circular. He further submits that the petitioner has already undergone an actual custody of 03 years 05 months and 26 days and that only 02 witnesses have been examined so far. Reference is also made to the various decisions of the Co-ordinate Benches of this Court is as under:

'.....Balbir Kaur @ Beero vs. State of Punjab' – CRM-M-44907-2017, 'Rajwinder Singh @ Raju vs. State of Punjab' – CRM-M-2396-2020, 'Amandeep Kaur @ Kalo vs. State of Punjab' – CRM-M-29004-2019, 'Savitri Devi vs. State of Punjab' – CRM-M-26581-2021 and 'Sharna Ram vs. State of Punjab' – CRM-M-14595-2020, in which the accused persons in custody were ordered to be released when it transpired that the vehicles used by the Police Officers who had apprehended the accused/effectuated recovery of contraband from them were private and not Police Vehicles, which was in violation of the Policy/Circular sent by the Director General of Police, Punjab dated 4th May, 2015 '

4. Mr. Karanbir Singh, Asstt. A.G. Punjab has failed to controvert the aforesaid submissions. It is pointed out that even though in the order dated 23.03.2022, it was apprised by the State that 05 witnesses out the 12 witnesses have been examined, however, only 02 witness have actually been examined and 03 witnesses had been given up in a tally of total 05 witnesses. It is also pointed out that even though the case fixed for prosecution evidence for 31.03.2022 for recording evidence of the witnesses, however, no witness was examined on the

said date. He could not controvert the fact that the petitioner has undergone an actual sentence of 03 years 05 months and 26 days and that he is not involved in the any other case under the NDPS Act.

5. I have heard learned counsel appearing on behalf of the respective parties.

6. Taking in to consideration the circumstances as aforesaid as also the ratio of the present judgments of the Co-ordinate Benches of this Court as well as the period of custody already spent by the petitioner, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

7. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 02, 2022

vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>