

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25690-2022 (O & M)

Date of decision: 08.07.2022

Vikas Kumar @ Vikas

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Yashpal Thakur, Advocate, for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.82 dated 14.09.2021 under Sections 22/61/85 NDPS Act (Section 29 NDPS Act added later on) registered with Police Station Badali Ala Singh, District Fatehgarh Sahib, Punjab.

The present FIR came to be registered at the instance of the investigating agency with the allegations that during the course of patrolling, a secret informer gave information to the ASI that Harinder Singh alias Shentu son of Bahadur Singh and Joga Singh son of Baldev Singh residents village Jandiala Sudha, Police Station Sohana, District Mohali used to sell intoxicant tablets. On 14.09.2021, the aforesaid persons were coming on their motorcycle bearing registration No. PB-65-L-4612 black colour Platina from Mohali to the side of Chunni and Badali and if a *naka* was installed, heavy quantity of intoxicant tablets could be recovered from them. Based on

arrested. A recovery of 1020 tablets of lomotil was effected from Harinder Singh and a recovery of 120 tablets of lomotil alongwith 495 loose intoxicant tablets was effected from Joga Singh. During the interrogation of the abovesaid persons, they disclosed the name of the petitioner-Vikas Kumar @ Vikas, who was apprehended on 18.09.2021.

The learned counsel for the petitioner contends that the petitioner is not named in the FIR but is only named in the disclosure statement of his co-accused. No recovery whatsoever has been effected from him. He has placed reliance on the judgments passed in the cases of '*Tofan Singh versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592*', '*Rakesh Kumar Singla versus Union of India 2021 (1) RCR (Criminal) 704*'; '*Surinder Kumar Khanna versus Intelligence Officer Directorate of Revenue Intelligence, 2018(3) RCR (Criminal) 954*'; '*State by (NCB) Bengaluru versus Pallulabid Ahmad Arimutta & Anr. 2022(1) RCR (Criminal) 762*' and '*Sanjeev Chandra Agarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590*', to contend that such disclosure statements were inadmissible in evidence. He further contends that the challan was submitted on 09.03.2022 and the charges were framed on 11.04.2022. As many as 16 prosecution witnesses are to be examined and the petitioner, otherwise, is a first-time offender. He, thus, prayed for the grant of regular bail to the petitioner.

The learned State counsel, on the other hand, does not dispute the factual position of the petitioner being named in a disclosure statement as also the fact that the petitioner does not have any criminal antecedents. He, however, submits that the petitioner did not deserve the concession of bail because the offences of this kind are on the rise. He, however admits

certificate dated 08.07.2022 filed on behalf of the State, which is taken on record.

I have heard the learned counsel for both the parties at length.

Admittedly, the petitioner was not arrested at the spot but has been named subsequently on the basis of disclosure statement. It would be a matter of adjudication during trial as to the evidentiary value of the disclosure statement of a co-accused. As per the prosecution, no recovery has been effected from the petitioner and he is a first time offender. In this factual scenario, the rigours of Section 37 NDPS Act can be relaxed.

Keeping in view the aforementioned facts as also the clean antecedents of the petitioner and the fact that the trial of the case is not likely to be concluded in the near future as 16 prosecution witnesses are yet to be examined, the further incarceration of the petitioner is not required.

Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Vikas Kumar @ Vikas is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other crime other.

(JASJIT SINGH BEDI)
JUDGE

July 08, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No