

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-52461-2021

Date of Decision: 25.08.2022

Vivek Kumar Sharma

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Mohit Vashishat, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J. (Oral)

In the instant petition, the petitioner seeks grant of regular bail to him in case FIR No.12 dated 13.01.2020 under Section 22/61/85 of Narcotics Drug and Psychotropic Substances Act, 1985 (in short, the Act) registered at Police Station Focal Point, District Ludhiana (Annexure P/1).

Learned counsel for the petitioner contends that the alleged recovery was not effected from him and the petitioner has been falsely implicated on the disclosure statement of the co-accused. He further contends that the petitioner is behind the bars since January, 2020 and no prosecution witness has been led by the prosecution till now.

On the other hand, learned State counsel has filed status report/reply by way of affidavit of Simranjeet Singh, PPS, Asstt. Commissioner of Police, Industrial Area-A, Ludhiana dated 17.01.2022 wherein the categoric stand taken is that there is bar of Section 37 of the Act, and the quantity recovered is commercial in nature. Therefore, the concession of regular bail cannot be extended to the petitioner.

Before reaching to any conclusion, it is deemed appropriate to

37. Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 2[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.]

Learned counsel for the petitioner relies upon orders passed by this Court in (i) **CRM-M-31228-2020 (Sarabjit Singh @ Sabbi vs. State of Punjab)** decided on 13.10.2020; (ii) **CRM-M-9596-2020 (Rajesh Kumar @ Kalu vs. State of Punjab)** decided on 18.01.2021; and (iii) **CRM-M-10765-2021 (Kulwinder Singh @ Kinder vs. State of Punjab)** decided on 12.03.2021.

A perusal of the above orders would show that in those cases, the evidence by the prosecution was led and trial was almost complete and bail

was granted at a later stage. In the present case, admittedly no prosecution witness has been examined at all, as such, the circumstances are not identical.

No case for grant of regular bail is made out.

Dismissed.

25.08.2022
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No