

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.206

CRM-M-54026-2021 (O&M)
Date of decision: 20.04.2022

SUKHPAL KUMAR @ ROCKY AND ANOTHERPetitioner

Versus

STATE OF PUNJABRespondent

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

Present: Mr. R.P. Dhir, Advocate for
for the petitioners.

Ms. A.K Khurana, DAG, Punjab.

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VINOD S. BHARDWAJ, J. (Oral)

This is a petition filed under Section 439 Cr.P.C for grant of regular bail to the petitioners in case bearing FIR No.16 dated 01.02.2020, registered at Police Station Tanda, District Hoshiarpur, under Sections 15 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Learned counsel for the petitioners submits that a total of four persons were arrested on 01.02.2020. Upon the search of the petitioner-Sukhpal Kumar @ Rocky, 85 grams of intoxicant powder was allegedly recovered and from the search of petitioner-Satish Kumar @ Bunty, 58 grams of intoxicant powder is stated to have been recovered. He submits

that the recovery in question has been effected in violation of the mandate of Section 42 of the Act. As per the FIR, information is stated to have been received in the Police Station on 01.02.2020 at 10:13 PM and entry is also made in the daily diary on 01.02.2020 at 10:13 PM, whereas ruqa is stated to have been sent on 01.02.2020 at 9:50 PM. It is thus argued that the entry made in the rojnamcha is incorporated after completion of the consent memo and recovery proceedings. He also submits that there is a violation of Section 50 of the NDPS Act, as no offer was made to the petitioner and that the offer so made was defective. It is contended that the recovery in question is of non-commercial quantity and that the petitioner has already undergone an actual custody of 05 months and 25 days, as per the custody certificate furnished by the State. However, he further contends that there is no other case either pending, registered or decided against the petitioners under the NDPS Act.

The aforesaid averments are not denied and disputed by the learned State counsel. She further submits that the prosecution evidence has not yet commenced and that there are as many as 12 witnesses to be examined by the prosecution.

Taking into consideration the fact that the recovery in question is non-commercial and that there are no other criminal antecedents of the petitioners, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioners are admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioners shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or

indirectly.

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.

20.04.2022
Amandeep

(VINOD S. BHARDWAJ)
JUDGE

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