

SHANANT VS STATE OF PUNJAB

Present: Mr. Yashpal Thakur, Advocate
for the petitioner(s).

1. Petitioner-Shanant, aged 26 years has filed instant petition under Section 439 Cr.P.C. seeking bail in FIR No.198 dated 13.08.2022 under Sections 22-C/61/85 of Narcotic Psychotropic Substances Act 1985 (NDPS Act 1985), Police Station Mandi Gobindgarh, District Fatehgarh-Sahib.

2. Counsel for the petitioner submits that allegations mentioned in the FIR appears to be hypothetical because all the three persons boarding motorcycle have been made accused purposefully by projecting the affecting recovery from each one of them. Thus, it would be an issue at final stage of the trial Court to decide, whether the recovery has been affected from one person or all the three, as projected in the FIR.

3. Counsel for the petitioner submits that be that as it may, from the possession of the petitioner total 8 narcotic injections Buprenorphine 2 ml each of brand Leegesic Batch No. DA436 MFG DATE MAY 2022 Expiry DATE APR 2024 and small 8 bottles (shishi) of Avil 10 ml were recovered. Thus, counsel submits that alleged recovery from the petitioner is, of non-commercial quantity and he has already undergone total custody period of more than 9 months.

4. Counsel for the petitioner further submits that conclusion of trial would also take a long time and clarifies that bail application of the accused-Vivek Kumar i.e. CRM-M-57500-2022 has been withdrawn vide order dated 17.04.2023. Moreover, recovery of the contra band from the said accused was of commercial quantity. Thus, prayer for bail of petitioner is to be examined differently then his co-accused Vivek Kumar.

5. On the other hand, learned State counsel has also produced custody certificate dated 30.05.2023, which is taken on record. Registry is directed to tag the same at appropriate place.

6. From the said custody certificate, it is noticed that petitioner has completed the custody period of 9 months and 16 days for the unauthorised recovery of contraband of non-commercial quantity from the petitioner.

7. On being asked by the Court, learned State counsel on instructions from SI Satwinder Toor informs that after completion of investigation, challan/final report under Section 173 Cr.P.C. has been submitted & till date, out of total 23 prosecution witnesses only one has been examined.

8. I have considered the submissions addressed by counsel for the petitioner as well as learned State counsel and gone through the record available with this Court. Beside considering the aforementioned submissions, one more fact is noticed by the Court that petitioner is a young boy aged 26 years and keeping him inside jail for an indefinite period may not bring good fruits in his future life especially when the trial is not likely to conclude in near future because only one out of 23 prosecution witnesses has been examined.

It is also noticed that quantity of contraband recovered from the petitioner is non-commercial as per the scheduled prescribed in the NDPS Act. From the custody certificate also, it is clear that petitioner is not involved in any other similar activity except the present one.

Therefore, I deem it appropriate to consider the petitioner for releasing him on bail during the pendency of trial.

9. Accordingly, petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Area Magistrate/Duty Magistrate.

10. However, it is made clear that in case petitioner is found involved in any other similar activity in future, it would be open for the prosecution /State of Punjab to seek cancellation of the bail granted by this Court, today.

(SANJAY VASHISTH)
JUDGE

May 31, 2023

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