

2023:PHHC:068882

**214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-10811-2023

Date of Decision: 12.05.2023

VINOD SAHNI

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Lakshay Bector, Advocate, for the petitioner.
Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 137 dated 23.08.2022 under Section 22 of the NDPS Act registered at Police Station P.A.U. District Ludhiana.

2. Custody certificate has been placed on record.

3. Learned counsel for the petitioner contends that as per the allegations, the petitioner alongwith co-accused Santosh and Abod were travelling on a scooter and on seeing the police party, they took out black coloured polythene bag from the pocket of their respective *pyjamas* and threw it on the ground. It has been submitted that a false story has been concocted with an attempt to circumvent the mandatory provision of Section 50 of the NDPS Act. As per the allegations, 300 tablets of Tramadol have been recovered from the polythene bags thrown by each of the accused. The petitioner is in custody for a period of 08 months and 19 days and not involved in any other case. Till date, out of 13, no witness has been examined. Furthermore, similarly placed co-accused-Abod has been granted regular bail by the Coordinate Bench of this Court in terms of the order dated 16.02.2023 passed in CRM-M-58614-2022, Annexure P-4.

4. Learned State counsel has opposed the bail application on the score that the mandatory provisions of Section 50 of the NDPS Act are not attracted in the case as the recovery has not been effected during the course of personal search. However, it has not been disputed that till date, no witness has been examined and Abod, co-accused, from whom also 300 tablets of Tramadol have been recovered, has been granted bail.

5. The controversy as to whether the provisions of Section 50 of the NDPS Act are attracted or not, will be a debatable and moot point during the course of trial. Till date, out of 13, no prosecution witness has been examined. The similarly placed co-accused, Abod, has been granted regular bail by the Coordinate Bench of this Court. The petitioner becomes entitled to concession of bail on the principle of parity.

6. Keeping in view the above, the ends of justice will meet, if the petitioner is granted concession of regular bail. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate.

12.05.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No