

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13442-2023
Date of Decision : 22.03.2023

Sanchit Gupta

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Amaninder Preet, Advocate
for the petitioner.

Mr. M.S.Nagra, Asstt. Advocate General, Punjab
for the respondent-State.

VIKRAM AGGARWAL, J (ORAL)

Custody certificate has been filed which is taken on record.

2. Prayer in the present petition is for the grant of regular bail to the petitioner in case FIR No.57 dated 09.02.2020, registered under Sections 21 & 22 of the Narcotic Drugs & Psychotropic Substances Act (in short 'the NDPS Act'), at Police Station City Kharar, District SAS Nagar Mohali.

3. The petitioner was arrested on 09.02.2020 on the basis of a secret information and 60 grams of intoxicant powder (chitta) was recovered from him.

4. Learned counsel for the petitioner has submitted that there was a gross violation of Section 50 of the NDPS Act. Reference has been made to

the statement of ASI Rajinder Singh (Annexure P-2) wherein it has been stated that the petitioner was initially given an offer by ASI Ajay, Incharge of the Police Post Sunny Enclave, Kharar that the petitioner had a right to be searched by some Gazetted Officer or a Magistrate and when the petitioner stated that ASI Ajay could search him, he called DSP SP Singh. The DSP also reached the spot and then gave a further offer to the petitioner that he had a right to be searched by a Magistrate upon him the petitioner stated that the DSP could conduct the search. It has been submitted that this is a gross violation of the provisions of Section 50 of the NDPS Act insofar as no proper offer was given.

5. Learned counsel for the petitioner has also contended that the petitioner has been falsely implicated. Reference has been made to the time of sending of the police information (ruqa), the time of registration of the FIR and the time at which ASI Ajay Kumar reached the spot. It has been submitted that this would clearly show that the petitioner had been falsely implicated. Reference has also been made to various annexures which are the consent memo, recovery memo etc. wherein the FIR number had not been mentioned. It has been submitted that this also shows that the petitioner had been falsely implicated.

6. Learned counsel has further submitted that the petitioner is in custody for the last more than 1½ years; the trial will still take a sufficient long time since out of 13 witnesses, only 02 have been examined despite charges having been framed way back on 10.08.2021; no recovery has to be made from the petitioner and, therefore, no useful purpose would be served by keeping the petitioner in custody any longer. He has placed reliance upon

the judgment of a Division Bench of this Court in *Varinder Singh @ Shanki vs. State of Punjab 2022 (1) R.C.R.(Criminal) 536* as well as the judgments of this Court in *Salinder Singh @ Shinda vs. State of Punjab 2022 (1) Law Herald 87, Amandeep Singh vs. State of Punjab 2019 (4) R.C.R. (Criminal) 695 and Didar Singh @ Dara vs. The State of Punjab 2010 (4) AICLR 382.*

7. Learned counsel representing the respondent-State has opposed the bail application. He has submitted that the petitioner is involved in two other cases under the NDPS Act. He has submitted that the arguments addressed by learned counsel for the petitioner are not to be considered at the stage of consideration of the present petition for the grant of regular bail. It has been submitted that if the petitioner is released on bail, there is every likelihood of his absconding.

8. I have considered the arguments advanced by learned counsel for the parties and have also perused the paper book.

9. The petitioner was found to be in possession of 60 grams of white coloured powder (chitta) which as per the report of the FSL was found to contain 62.5% of Diphenoxylate Hydrochloride. Admittedly the same is a commercial quantity. The petitioner was initially arrested but was released on interim bail as report of FSL had not been received but was subsequently arrested again after the receipt of the FSL report. The petitioner has undergone custody of 01 year 07 months and 13 days till now. The arguments addressed by the learned counsel for the petitioner with regard to the violation of Section 50 of the NDPS Act as also on other points on the merits of the case do not deserve to be gone into at this stage. Any observation on merits at this stage may affect the case of either side. The

petitioner is stated to be involved in two other cases under the NDPS Act and now he has been found in possession of a commercial quantity of an intoxicating substance i.e. 'chitta'. Merely because he has spent 01 year 07 months and 13 days in jail does not *ipso facto* entitle him to the grant of bail. If he is released on bail at this stage, there is every likelihood of his trying to influence the witnesses and of his absconding. The judgments relied upon by learned counsel for the petitioner were on different facts. Infact the judgments in the cases of **Varinder Singh @ Shanki and Didar Singh @ Dara** (supra) were given after the conviction of the accused therein. In the case of **Varinder Singh @ Shanki** (supra), the Court was considering the application for suspension of sentence and in the case of **Didar Singh @ Dara** (supra), the Court was finally deciding the appeal against conviction. Even the other judgments are on different facts. Even otherwise, once this Court is not inclined to go into the merits of the case at this stage, the judgments would not help the petitioner.

10. In view of the aforementioned facts and circumstances, this Court does not find any merit in the present petition and the same is hereby dismissed.

(**VIKRAM AGGARWAL**)
JUDGE

22.03.2023
mamta

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