

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

218

CRM-M-28624-2023(O&M)

Date of decision: 12.10.2023

Vinay

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Karan Choudhary, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.76 dated 11.04.2023, registered under Section 18 of NDPS Act, 1985 (Section 27-A of NDPS Act added later on), at Police Station City Gurdaspur, District Gurdaspur.

2. Learned counsel contends that the petitioner is in custody for about 6 months. The contraband recovered from him is of non-commercial in nature, it being 50 grams of opium. He was the pillion rider of the vehicle. The mandatory provisions of Sections 42 and 50 of NDPS Act were not complied with. No independent witness was joined. He submits that the challan has not been presented despite the fact that a period of 182 days has elapsed. Co-accused Shivam Sharma has been granted regular bail by this Court vide order dated 25.05.2023, Annexure P-3. The petitioner is not involved in any other case.

3. The custody certificate dated 11.10.2023 has been filed by learned

State counsel. As per the same, the petitioner is behind bars for 6 months and 1 day.

4. Learned State counsel opposes the bail on the ground that the contraband in question was recovered from the petitioner. He is however unable to controvert the submissions with regard to the stage of the case, quantity of contraband being non-commercial, co-accused having been granted bail and the petitioner is not involved in any other case.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 6 months and 1 day; not involved in any other case; recovery being non-commercial quantity of contraband, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; challan is yet to be presented; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the

offence of which, he is an accused, or for commission of which he is suspected of.

- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

October 12, 2023
M.Kamra

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