

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

CRM-M-31088-2023
Date of Decision:07.07.2023

Vivek Gill alias Vicky ...Petitioner

vs.

State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Malkeet Singh, Advocate
for the petitioner.

Mr. M.S.Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.0123 dated 23.12.2022 registered under Sections 22, 22(C) and Section 29 of NDPS Act, at Police Station Division No.1, Ludhiana.

As per case of the prosecution, at about 2.00 p.m. on 23.12.2022, a police party had put barricade for special checking under the supervision of ACP Ramandeep Singh Bhullar, PPS at Jagraon Bridge and a motorcycle was noticed coming from the opposite side. Three persons were riding the said motorcycle and on seeing the police party, they got perplexed and were stopped by the police party. When the search was conducted, 17 strips of tablets Alprazolam 0.5 mg APRASAFE 0.5 mg bearing batch No. PCCAA668 and each of the strip was containing 16 tablets and total 1020 tablets were recovered from the said three accused persons.

Learned counsel for the petitioner contends that the petitioner was not named in the present FIR and was named by his co-accused in their disclosure statement. Even as per the said disclosure statement, the contraband, which was allegedly recovered from the co-accused, was to be delivered to him. Except the disclosure statement suffered by the co-accused of the petitioner, there is no other evidence against him. The petitioner was arrested in the present case on 23.12.2022 and the challan has already been presented in the Court of learned Special Judge. The prosecution has cited 15 witnesses and the next date of hearing is fixed on 26.07.2023 for framing of the charges.

On the other hand, learned State counsel has vehemently opposed the grant of concession of bail to the present petitioner on the ground that the recovery of contraband from the co-accused is commercial in nature and the stringent provisions of Section 37 of NDPS Act should be applied to the present case.

However, he does not dispute the fact that there is no other case against the present petitioner. The conclusion of the trial will take quite long time.

I have heard the learned counsel for the parties and perused the record.

It is not in dispute that the petitioner has no criminal antecedents and is continuing in custody since 23.12.2022. The investigation is complete and the trial is yet to formally commence before the learned trial Court as the next date of hearing is fixed on 26.07.2023 for framing of the charges. It is also not in dispute that except the disclosure statement of the accused, there is no other evidence against the present petitioner.

Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

07.07.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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