

KULDEEP SINGH
V/S

... PETITIONER

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Manoj R. Sharma, Advocate for the petitioner.
Mr. Iqbal Singh Mann, DAG Punjab.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 148 dated 02.11.2022 under Sections 21(b), 27(a) of NDPS Act, registered at Police Station Dhariwal, District Gurdaspur.

Custody certificate has been taken on record.

Briefly, the FIR has been registered in pursuance of the recovery of 12 gms of heroin which was thrown by the co-accused Navjeet Singh on the rear seat of the car being driven by him. Navjeet Singh managed to slip away and the petitioner who was sitting on the adjoining seat of the driver in the car was apprehended.

Learned counsel for the petitioner contends that no narcotic substance has been recovered from the personal search of the petitioner. Even the quantity of heroin recovered from the car falls in the category of less than commercial quantity. The allegations against the petitioner are to the effect that he was habitual of taking intoxicant and consuming heroin. He had given Rs. 600/- to Navjeet Singh, co-accused to get the heroin.

There is nothing to indicate that the petitioner, in any manner, was involved in financing illicit traffic in narcotics or is engaged in harbouring any of the offenders. Consequently, the provisions of Section 27A of NDPS Act are not attracted in the instant case. The petitioner is in custody for a period of 2 months and 6 days. Though he is involved in two other cases under Punjab Excise Act, but is on bail in those cases and not involved in any other case under NDPS Act.

Learned State counsel has not opposed the aforesaid aspects but has opposed the bail application on the score that the petitioner was found in joint possession of the contraband while travelling in the car with Navjeet Singh, co-accused, who is absconding.

It is significant to note that no narcotic substance has been recovered during the course of personal search of the petitioner. The contraband was allegedly thrown on the rear seat by the co-accused who was driving the car. It will remain a debatable and moot point as to whether the petitioner was in conscious possession of contraband and provisions of Section 27A of NDPS Act are attracted in the instant case or not. The quantity of contraband recovered from the car falls in the category of less than commercial quantity. As such, the stringent provisions of Section 37 of the NDPS Act are attracted in the instant case. The custodial interrogation of the petitioner is over and he has been remanded to judicial custody. The petitioner is not involved in any other case under NDPS Act. The conclusion of investigation and trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

10.01.2023

Janki

**(VIVEK PURI)
JUDGE**

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