



CRM-M-41210-2024

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

CRM-M-41210-2024

Date of Decision: 21.11.2024

Vishal and others

..... Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ashok Giri, Advocate for the petitioners.
Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioners have approached this Court by way of present petition praying for granting them regular bail in case FIR No.170 dated 21.06.2024, under Sections 21(b)/27-A of NDPS Act, 1985 (Sections 29 and 29-A NDPS Act, added lateron), registered at Police Station Phillaur, District Jalandhar Rural.

2. As per the facts of the case, on 21.06.2024 the Police party while on patrolling, spotted three persons coming on the motorcycle, out of which there were two young men and one was lady. On suspicion, they were stopped. On asking they disclosed their names as Vishal, Sidharth and Deepa wife of Sidharth (petitioners). They were given offer to be searched and on search of the tool box of the motorcycle, a black colour polythene containing 120 grams of heroin was recovered. They failed to produce any licence for having the possession of the same. Thus, the FIR was registered and they were arrested on the spot. On registration of the FIR, the investigation commenced. Samples taken were sent to the FSL. The petitioners approached the Court of learned



Judge Special Court, Jalandhar praying for grant of bail. However, finding no merit, the same was declined vide order dated 09.08.2024. Hence, petitioners are before this Court praying for grant of bail.

3. It has been vehemently contended by counsel for the petitioners that the alleged recovery has been made in the public place, however, no independent witness has been joined by the Police party while conducting the search. It is further submitted that there is violation of Section 50 of the NDPS Act, which is mandatory provision. He submits that though petitioner No.1 was falsely implicated in other case registered under Sections 354/458/506/376-D IPC, however, he has been acquitted in the same. As far as petitioners No.2 and 3 are concerned, they are husband wife and have no criminal antecedents. He submits that even otherwise, the quantity recovered is a non-commercial quantity and thus, provisions of Section 37 of the NDPS Act are not attracted. Thus, it is submitted that in the overall facts and circumstances of the present case, the petitioners deserve to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioners. He has submitted that the recovery has been effected by due compliance of the statutory provisions of the NDPS Act. He submits that recovery has been effected from the tool box of the motorcycle, which the petitioners were riding. On instructions, he has submitted that petitioner No.1 is involved in one other case for the offence under Sections 354/458/506/376-D IPC, however, he has submitted that petitioners No.2 and 3 have no criminal antecedents. It is further submitted that the case is under investigation.



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5. Heard.

6. After hearing counsel for the parties and perusing the record, it is apparent that the petitioners were arrested on 21.06.2024. Alleged contraband recovered is of non-commercial quantity. The case is under investigation. Petitioner No.1 was stated to be involved in one other case, however, he has been acquitted in the same, whereas, petitioners No.2 and 3 have no criminal antecedents.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioners succeeds in making out a case for grant of regular bail to the petitioners.

8. Accordingly, the present petition is allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

9. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

21.11.2024

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(RAJESH BHARDWAJ)**JUDGE**

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No