

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRM-M-62712-2024
Date of Decision : **December 18, 2024**

VIVEK KUMAR ALIAS DEBAL SHOOTER

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Hitesh Verma, Advocate
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner prays for grant of regular bail in case FIR No.315 dated 27.6.2024, Under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Barnala, District Barnala.
2. The case of the prosecution, as set up in the instant FIR, is extracted hereinafter:-

“To Officer Incharge of Police Station City Barnala. Today, I, SI along with ASI Santok Singh 402/Br, SC Manpreet Singh 259/Br, SC Nawab Singh 533/Br, PHG Sunny 48078 on government vehicle bearing no. PB 13BQ 1495, which was being driven by PHG Rajesh Singh 27013, along with investigation kit, laptop printer, for checking of suspected persons & vehicles & patrolling, were present at Gadakhana Chowk, Barnala. Then at about 06:15 pm, secret informer met & informed me secretly that Vakil Singh s/o Buta Singh r/o Mallian, Barnala,

aged 24 years, 5'7" height, color dark, hair & beard trimmed, Gurpiar Singh s/o Gurjant Singh r/o Kumbharwal, Sangrur aged 26 years height 5 feet, color fair, hair & beard trimmed, Manish Kumar s/o Raj Kumar r/o Patti Road, Gali No. 9, Barnala aged 24 years, height 5'2", color dark, built slim & swift & Rohit Kumar s/o Ramesh Kumar r/o Patti Road, Gali no.4 Barnala, aged 23 years, height 5'9", hair & beard trimmed, used to bring intoxicating tablets from outside at cheap price & sell the same. Today also these 4 persons are trying to sell intoxicating tablets on foot at Anaj mandi, Barnala. if they are searched now at Anaj Mandi, Barnala, then they can be apprehended with intoxicating tablets. Information is true and reliable. Therefore, Vakil Singh, Gurpiar Singh, Munish Kumar & Rohit Kumar have committed offence under Sections 22/61/85 of NDPS Act by keeping and selling intoxicant tablets in their possession."

3. A perusal of the above contents of FIR reflects that total 700 loose tablets were recovered from all the accused persons, which comes out to 89 grams and later on the salt involved was found to be of Alprazolam, therefore, the same falls within the ambit of non-commercial quantity, as the commercial quantity, which prescribed under the schedule attached with the NDPS Act is more than 100 grams.

4. Learned counsel for the petitioner in the asking for the relief (supra) submits that the petitioner has suffered incarceration of more than 3 months as on today in the instant case and the final report has already been filed, however, no witness has been examined so far, therefore, the conclusion of the trial would take long time. He finally submits that though the petitioner is involved in three other cases and out of these cases, one is under NDPS Act and is of commercial quantity, and he is on bail in that case and in the instant case the petitioner has been arraigned as an accused with the aid of Section 29 of NDPS Act.

5. Per contra, the learned State counsel has opposed the grant of regular bail to the petitioner and submits that the petitioner is a habitual offender, as this is the second case against him under the NDPS Act. She

further informs this Court after having instructions from the quarter concerned that out of total 15 cited prosecution witnesses in the final report, none has been examined so far. However, she has not disputed the fact that the alleged recovery falls within the ambit of non-commercial quantity.

6. Be that as it may, considering the fact that the petitioner has suffered incarceration of about 3 months and 17 days as on today and the recovery effected in the instant FIR falls within the ambit of non-commercial quantity and the trial is yet to begin, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

7. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

8. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

December 18, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No