

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-24102-2019 (O&M)
Date of Decision:-30.5.2019

Mithun Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Brahminder Singh Toor, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab,
assisted by Sub Inspector Rashpal Singh.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking grant of regular bail in a case registered against him vide FIR No.257 dated 4.11.2018 under Sections 22, 27-A and 29 of NDPS Act at Police Station Moti Nagar, District Ludhiana.

As per the FIR, the police received secret information to the effect that Salim, Sheelo, Babita and Moni indulged in sale of 'Heroin' and after bringing the same, sell the same in their colony and that in case a raid is conducted they could be caught red handed. Pursuant to receipt of aforesaid information, a raid was conducted by the police at the house of the petitioners who are members of the same family and as per the case of the prosecution, one clean shaven man and three women were found sitting on the floor and were conversing with each other and were counting money and

putting the same in a black coloured polythene bag and were also having another green coloured polythene bag lying in the middle. It is alleged that upon noticing the police party, the clean-shaven man picked up the bags lying in the middle and pushed the same underneath a bed. It is further the case of prosecution that the accused were apprehended and the bags pushed underneath the bed were recovered and while one of the bag was found to be containing ₹2,78,730/-, the other bag was found to contain 330 grams of 'heroin'.

It is further the case of prosecution that the aforesaid Saleem, who was arrested on 4.11.2018, made a disclosure statement to the effect that he procures 'heroin' from the petitioner Mithun Kumar, who is also into selling intoxicating tablets, injections etc.

Pursuant to the aforesaid disclosure statement, the petitioner was arrested on 8.11.2018 and who suffered a disclosure statement to the effect that he had kept concealed intoxicating tablets in the wooden box of his bed at his home.

Pursuant to the said disclosure statement, he led police to the disclosed place and got recovered 1350 tablets of 'restwell', which contains 'alprazolam' as per report of the chemical examiner.

The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that he was nominated on the basis of disclosure statement of the co-accused and that he has never been involved in any other case earlier.

Opposing the petition, the learned State counsel has submitted that since the disclosure statement made by the petitioner led to recovery of

1350 tablets of 'restwell', which contains 'alprazolam', no case for grant of bail is made out. It has, however, been informed that the petitioner has never been involved in any other case earlier. It has also been informed that although charges have been framed but not even a single prosecution witness out of the cited prosecution witnesses has been examined so far.

Having regard to the facts and circumstances of the case and bearing in mind that the petitioner came to be nominated on the basis of statement of the co-accused and is not stated to be involved in any other case earlier and that till date not even a single prosecution witness out of the cited prosecution witnesses has been examined despite the fact that the petitioner has been behind bars since the last more than six months, in my opinion, no useful purpose would be served by further detaining the petitioner behind bars. The petition, as such, is accepted and the petitioner Mithun Kumar is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

The petition stands accepted accordingly.

30.5.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No