

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH207

CRM-M-15213-2020

Date of decision: 08.10.2020

Naresh Kumar @ Kala

.....Petitioner

versus

State of Haryana

....Respondent

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Sandeep Kotla, Advocate
for the petitioner in CRM-M-15213-2020.
Mr. C.P. Tiwana, Advocate
for the petitioner in CRM-M-15893-2020.
Mr. R.S. Mamli, Advocate
for the petitioner in CRM-M-13828-2020.
Mr. Rajiv Goel, DAG, Haryana.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of lockdown due to outbreak of pandemic COVID-19.

This order shall dispose of three criminal miscellaneous petitions i.e. (i) CRM-M-15213-2020 (Naresh Kumar @ Kala vs. State of Haryana); (ii) CRM-M-15893-2020 (Aman vs. State of Haryana); and (iii) CRM-M-13828-2020 (Umed Verma vs. State of Haryana) inter alia, praying for grant of regular bail to them in case FIR No.172 dated 31.08.2019 under Sections 22-C/27-A/61 of NDPS Act, 1985, registered at PS Bhattu Kalan, Fatehabad, District Fatehabad. CRM-M-15213-2020 is being treated as the lead case for the purposes of order.

Learned counsel for the petitioner(s) submits that petitioner-Naresh Kumar @Kala was arrested in this case on 31.08.2019. He submits that as per the allegations in the FIR, petitioner-Naresh Kumar @ Kala was

allegedly driving a motorcycle, upon which one cardboard box was seen to be tied on the back side of the motorcycle. He submits that the petitioner has never ever been involved in any criminal case. It is submitted that the petitioner has been falsely implicated. He further submits that the tramadol tablets so allegedly recovered were billed drugs. The bill was issued by Neutec Health Care Pvt. Ltd., which is owned by one Mr. Gaurav Arora.

Learned counsel for the petitioner-Aman submits that the petitioner-Aman was not named in the FIR, he was only named in the disclosure statement with the allegation that he had purchased intoxicants tablets from Neutec Health Care Pvt. Ltd. through co-accused Aman. It is further mentioned that accused-Aman sent the tablets to co-accused Naresh through co-accused, namely, Umed Verma (the third petitioner).

Learned State counsel, on instructions from SI Surinder Singh, states that the consolidated reply by way of affidavit of Sh. Rajesh Kumar, IPS, Superintendent of Police, Fatehabad, District Fatehabad (Haryana), has been filed in the case of Umed Verma-petitioner. He further submits that the investigation is complete, the challan was presented on 27.02.2020. He submits that there are total of 27 witnesses but none has been examined till date. He, however, submits that since the recovery is of Tramadol Hydrochloride Tablets of 100 mg was recovered. From each box, 117/117 boxes containing 20/20 strips of 10/10 tablets, total 46800 tablets were recovered with manufacturing date as August 2019.

Faced with the situation, learned counsel for the petitioners submit that the petitioner-Naresh Kumar @ Kala was arrested on

31.08.2019, petitioner-Aman was arrested on 15.11.2019 and petitioner-Umed Verma was arrested on 08.11.2019. It is thus submitted that all the three petitioners have either been in custody for one year or nearly one year. It is also submitted that none of the petitioners were involved in any other FIR prior to this. However, in order to show their bona fide, the petitioners, namely, Naresh Kumar @Kala and Aman would deposit bank guarantee/original papers of the property worth Rs.10 lacs each and petitioner-Umed Verma, would deposit bank guarantee/original property papers worth Rs.2 lacs (within one month from the date of their release), before the Duty Magistrate/trial Court, with an undertaking that they would neither alienate the said property nor create any incumbrance on the same, till further orders of the Court. The petitioners would also give an undertaking that they would not involve themselves in any other case and if, they are found involved and found guilty in any other subsequent case (today onwards), the above said bank guarantee/property can be confiscated and the amount so realized be forfeited and deposited in the Government Treasury.

Counsel for the petitioners then submit that due to COVID situation retention of the petitioners in jail is dangerous to their life and otherwise also the trial is likely to take some time.

In view of the peculiar facts and circumstance as noticed above and the fact that the trial Court would likely to take time and also considering the situation of COVID-19, this Court deems it appropriate to release the petitioners on regular bail to the satisfaction of Chief Judicial

Magistrate/Duty Magistrate concerned. However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

In addition to the above said bail/surety bonds, in pursuance of the offer made by counsel for the petitioners, the petitioners, namely, Naresh Kumar @Kala and Aman would deposit bank guarantee/original papers of the property worth Rs.10 lacs each and petitioner-Umed Verma, would deposit bank guarantee/original property papers worth Rs.2 lacs (within one month from the date of their release), before the Duty Magistrate/trial Court, with an undertaking that they would neither alienate the said property nor create any incumbrance on the same. The petitioners are also directed to give an undertaking that they would not involve themselves in any other case and if, they are found involved and found guilty in any other subsequent case (today onwards), the above said bank guarantee/property shall be confiscated and the amount so realized be forfeited and deposited in the Government Treasury. The same shall be without prejudice to defence of the petitioners before the trial Court.

However, it is made clear that anything observed herein shall not be construed to be an expression on merits of the case.

The petition stands disposed of accordingly.

(GIRISH AGNIHOTRI)
JUDGE

08.10.2020
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Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No