

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

CRM-M-20550-2020 (O&M)

Date of decision : 07.08.2020

Dinesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Satya Veer Singh, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ANIL KSHETARPAL, J.

This is second petition filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail to the petitioner in a criminal case arising from FIR No.79 dated 22.03.2020, registered under Section 15 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985, at Police Station Sector 13-17, Panipat.

The first application, filed by the petitioner, was dismissed on 12.05.2020. In a nutshell, the case of the prosecution is that on the basis of secret information received, the police party apprehended the driver and the conductor along with Truck No. PB-02-BV-8199, which was parked in the passage going from Noorwala to Ansal. As per the secret information, they were talking to someone else on the mobile phone

regarding the delivery of narcotics. A Gazetted Officer was associated in the search, the truck was found loaded with 100 Kgs. 100 grams of *Doda Post* (poppy's fruit) and 5 Kgs. 40 gm *Chura Post* (poppy's husk). These narcotics were concealed in various other goods which were being transported in the truck. The driver and the conductor/helper disclosed their names as Makhan Lal and Gagan. They further disclosed that the aforesaid narcotics were loaded from Shaheed Baba Deep Singh Panjabi Hotel, Mangalwara, Udaipur, Rajasthan by Bittu for its delivery to the petitioner-Dinesh at Panipat against the payment of ₹20,000/-. The driver and the conductor, on reaching near Murthal, spoke to Bittu who directed them to reach Panipat city and the consignee would himself contact them. After an hour, when they reached Panipat city, a telephonic call from Mobile No. 8396967111 was received and the caller identified himself as Dinesh-the petitioner herein and directed them to park their truck near the bus stop of Noorwala after taking a "U-Turn" from the Toll Plaza of Panipat. On reaching at the designated place, they parked their vehicle on the road side and called Dinesh repeatedly. They could talk only once or twice, but thereafter, Dinesh switched off his phone. Since by the time it was quiet late at night, therefore, they slept in the vehicle and in the morning, they were apprehended by the police.

The police, during investigation, apprehended the petitioner and recovered the mobile with sim No. 8396967111 which is in the name of father-in-law (Azad) of the petitioner. It was also brought to the notice of this Court that the petitioner is also involved in another case under the

1985 Act, although released on bail. Keeping in view the aforesaid facts, the bail application was dismissed on 12.05.2020.

The Deputy Superintendent of Police (Crime) has filed reply by way of an affidavit in pursuant to the notice issued by this Court. On 27.07.2020, learned counsel for the petitioner contended that the recovered narcotic substance has not forwarded to the Forensic Science Laboratory, Madhuban, for its analysis.

In the reply, it has been brought to the notice of this Court that the present case was registered on 22.03.2020. However, due to lockdown in the entire country on account of the spread of Novel Corona virus, the Forensic Science Laboratory, Haryana has been accepting the parcels of the samples in the most urgent and serious matters. The Superintendent of Police, Panipat, wrote a letter dated 08.05.2020 to the Director, Forensic Science Laboratory with a request to accept the sample parcel for analysis. Thereafter, the parcel was sent to the Forensic Science Laboratory on 03.06.2020, however, the same was returned with an objection vide letter dated 03.06.2020. Thereafter, the Investigating Officer-Assistant Sub Inspector Kirpal Singh had to be quarantined twice for a period of two weeks each. Once again, the sample parcel was sent to the Forensic Science Laboratory on 28.07.2020 which was again returned with an objection. It has been found that there is an error in the order passed by the learned Additional Chief Judicial Magistrate. It has been assured that after getting the order corrected, the sample would be immediately sent to the Forensic Science Laboratory.

Keeping in view the aforesaid facts, it is found that there is no intentional delay on the part of the Investigating Agency in forwarding the sample.

Learned counsel appearing for the petitioner has drawn attention of this Court to the order passed by a Coordinate Bench on 03.07.2020 granting bail to Gulab in Criminal Misc. No. M-15839 of 2020. Learned counsel contended that the case of the petitioner is also on the same footing. He further submitted that the investigation in the case has been completed and, therefore, the petitioner should be released on bail.

On the other hand, learned counsel for the State has opposed the prayer on the ground that there is huge recovery of narcotic substances in the present case and the involvement of the petitioner is established from the calls exchanged between the driver of the truck and the petitioner, continuously from 19.03.2020 to 22.03.2020.

This Court has considered the submissions of learned counsel for the petitioner as well as the learned counsel for the State of Haryana.

As regards the grant of bail to the co-accused Gulab, it may be noted that the co-accused Gulab was sought to be nominated as an accused on the statement of the petitioner herein. Keeping in view the aforesaid facts, the Court chose to grant bail to him. However, in the present case, the mobile phone and the call details record link the petitioner with the driver. As per the disclosure statement of the driver of the vehicle, the consignment of narcotic substances was for the petitioner.

Still further, the petitioner is also involved in yet another case under the 1985 Act. No doubt, the co-accused Gulab, who has been granted bail, was also involved in yet another case but stands acquitted.

Still further, the first bail application of the petitioner was dismissed on 12.05.2020. Keeping in view the aforesaid facts, this Court is not inclined to grant bail to the petitioner, at this stage. However, the petitioner shall be at liberty to file a fresh application after the receipt of the report from the Forensic Science Laboratory. The Superintendent of Police, Panipat is directed to ensure that the sample drawn is not only immediately forwarded to the Forensic Science Laboratory, Madhuban, Haryana, but it is also analyzed expeditiously and the report is produced before the trial Court.

With these observations, the petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

07.08.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No