

CRM-M-24983 of 2020 (O&M)

DATE OF DECISION : 05.11.2020

Hakam

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Arun Sharma, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG Haryana.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 73 dated 10.06.2020, registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, Police Station Jhansa, District Kurukshetra.
2. Per FIR, on 10.06.2020, a secret information was received about petitioner and one Vipin indulgent in selling of intoxicant substances. Case was registered. During checking, the police nabbed the petitioner along with one Binder and Vipin. From the personal search of petitioner, 12 grams of smack was recovered. The accused were arrested.
3. Learned counsel for the petitioner submits that petitioner is in custody since 10.06.2020. According to him, the mandatory provisions of NDPS Act were violated while carrying out the search. He submits that co-accused has been enlarged on bail by the Court below. On the ground of parity alone petitioner is entitled to the same relief. He further submits that another case under NDPS Act has been registered against the petitioner, on the basis of disclosure statement of co-accused, which is not legally admissible. The petitioner was arrested in that case while he was in custody in the present case.

He further submits that except these two cases, petitioner is not having any criminal background.

4. On the other hand, learned State counsel opposes the bail plea. He submits that petitioner is an habitual offender and if released on bail, there is every apprehension of his being involved in similar offence.

5. The submissions/ pleas raised by learned counsel for the petitioner can only be adjudicated at the trial, depending upon nature of evidence. The petitioner cannot seek parity with co-accused. In that case, recovery was allegedly made from the half pant worn by the petitioner herein, whereas no narcotic substance was recovered from the co-accused. However, at this juncture, this Court would refrain from commenting on the merits thereof.

6. Perusal of status report filed by the State would reveal that in the subsequent NDPS case petitioner was arrested on the basis of disclosure statement of co-accused on 11.06.2020 even though no contraband was recovered from him, but the co-accused, from whom recovery was effected, had alleged that the same was supplied by the petitioner to him.

7. Taking into account the seriousness of the offence and the nature of allegations, the petitioner, does not deserve to be released on bail. Possibility of his getting involved in the similar offence cannot be ruled out.

8. In the premise, the petition is dismissed.

(ARUN MONGA)
JUDGE

November 05, 2020
Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No