

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

CRM-M No.25694 of 2020 (O&M)
DATE OF DECISION: 03.09.2020

Avinash Sharma @ Banty

.....Petitioner

versus

State of Haryana

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Siddharth Kinra, Advocate for the petitioner

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ALKA SARIN, J.: (Oral)

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.351 dated 28.12.2019 under Section 21C (Act No.61) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”) registered at Police Station Urban Estate Hisar, District Hisar.

The facts relevant to the present petition are that on 28.12.2019 ASI Jagdish Chander along with other Police officials was present near Vishvas School, Urban Estate, Hisar. A secret informer informed them that Parveen Kumar a resident of Kaimri Road, Hisar, who does smuggling of heroin, would come from Sector 1/4 Hisar to Jindal Chowk and if a raid is conducted at Surya Nagar Fatak, he can be apprehended. A report under Section 42 of the NDPS Act was sent to the concerned officer. After some time, one boy carrying a bag in his right hand was seen coming from Sector 1/4 on foot. On seeing the Police party, he turned back and started walking briskly. On suspicion, he was apprehended. He revealed his name to be

Parveen Kumar son of Subhash Chander. A notice under Section 50 of the NDPS Act was served upon him. He opted to be checked in the presence of a Gazetted Officer. Hence, DSP Joginder Sharma was called at the place of the occurrence. On checking, heroine kept in a white polythene was recovered from the bag which was taken into possession. The heroine weighed 509 grams and 14 milligrams. A recovery memo was prepared. Thereafter, on the basis of the disclosure statement of the accused Parveen, the present petitioner - Avinash Sharma @ Banty was arrested.

It has been contended by the learned counsel for the petitioner that the petitioner has neither been named in the FIR nor any recovery has been made from him. It has further been contended that the petitioner was illegally detained by the police and that he has falsely been implicated in the case.

Notice of Motion.

On the asking of the Court, Ms. Dimple Jain, Assistant Advocate General, Haryana has joined the session through video conferencing and accepts notice.

Learned State counsel, on instructions from ASI Krishan Kumar, has stated that the petitioner is a habitual offender and there is another FIR under the NDPS Act which is pending against him in which also the recovery was of heroine. It has further been stated by the learned counsel for the State that the petitioner is the kingpin and it was only on his asking that the co-accused had gone to Delhi to collect the consignment of heroine.

I have heard the learned counsel for the parties.

In the present case, the recovery is 509 grams and 14 milligrams of heroine. The petitioner, who has been nominated on the disclosure statement of Parveen, is stated to be the kingpin on whose asking Parveen was procuring heroine from Delhi. As per the disclosure statement of the co-accused, he had gone to Delhi on the asking of the petitioner to collect the consignment of heroine. Further, on the disclosure statement of co-accused Parveen, the auto driver has also been arrested. Learned State counsel has further pointed out that once the co-accused Parveen was arrested he had called up the petitioner from the Police Station and that is where the present petitioner was apprehended from.

In view of the above, I do not deem it to be a fit case for grant of bail. It is however, made clear that anything observed hereinabove shall not be taken as an expression of opinion on the merits of the case.

Dismissed.

**(ALKA SARIN)
JUDGE**

03.09.2020
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NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO