

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

CRM-M No.6342 of 2021 (O&M)

DATE OF DECISION: 25.10.2021

Ugochukwu UzarPetitioner

versus

State of HaryanaRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Rahul Sharma, Advocate for the petitioner

Ms. Ambika Sood, Addl. AG Haryana

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ALKA SARIN, J.

Heard through video conferencing.

This is the second petition for bail under Section 439 of the Code of Criminal Procedure, 1973 in FIR No.351 dated 28.12.2019 under Sections 21(c), 27(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) registered at Police Station Urban Estate Hisar, District Hisar and after the presentation of the challan Section 14 of the Foreigners Act, 1946 was added. The first petition for grant of regular bail being CRM-M-36103-2020 was dismissed as withdrawn on 03.12.2020.

The brief facts relevant to the present case are that the co-accused Parveen was apprehended with 509 grams and 14 milligrams of heroin on 28.12.2019 by the police party led by ASI Jagdish Chander. Thereafter, he suffered a disclosure statement on 28.12.2019 that Avinash Sharma, one of the co-accused, gave him a packet of currency notes and dropped him at Pirangarhi Chowk, Delhi to receive the contraband and to hand over the money. The contraband was to be taken to Sector 1-4 Community Centre, Hisar. He received the contraband and handed over the packet of currency notes and came back to Hisar but was apprehended. On 29.12.2019 co-accused Avinash was arrested and Section 27(a) of the NDPS Act was added. In his disclosure statement, he stated that on 28.12.2019 he took Parveen to Delhi in his Breeza Car bearing registration No.HR20AL-4914 and dropped Parveen at Pirangarhi Chowk, Delhi and asked him to receive the heroin from one of his contacts. He pointed to a person standing and asked Parveen to hand over the packet of currency notes and receive the contraband. He further asked Parveen to carry the contraband to Sector 1-4 Community Centre, Hisar where he would receive the contraband. On the basis of the disclosure statement, the present petitioner was arrested on 30.12.2019. The present petitioner also suffered a disclosure statement wherein he stated that he was involved in the business of purchasing and supplying heroin and 4-5 months ago he came in contact with Avinash and he used to call him and purchase heroin. Sometimes he would send his friend Parveen alias Monty. During investigation, the police gathered the call details and caller IDs showing that the co-accused were constantly in touch with each other.

The learned counsel for the petitioner would contend that the petitioner has not been named in the FIR and his name has surfaced only in the disclosure statement of the co-accused. It is further stated that there is no other case pending against the petitioner and that the petitioner has been in custody since 30.12.2019.

A status-report has been filed by way of affidavit of Upasana, IPS, Assistant Superintendent of Police, Hisar wherein the facts have been reiterated. It has further been stated in the status-report that the petitioner has not got his passport recovered and hence Section 14 of the Foreigners Act has been added in the present case. It is further stated in the status-report that during investigation it was revealed that the petitioner was in touch with the co-accused Avinash Sharma and Parveen on the mobile phones. It has further been pointed out that the bail petition of the co-accused was dismissed by a speaking order passed in CRM-M-25694-2020 (Avinash Sharma @ Banty vs. State of Haryana) on 03.09.2020. The learned State counsel has further contended that the petitioner is a foreigner and there is an apprehension that the petitioner would abscond especially in view of the fact that he has till date not got his passport recovered.

I have heard the learned counsel for the parties.

The petition of the similarly situated co-accused was dismissed by a detailed order on 03.09.2020. Today, again, the third bail petition filed by the same co-accused being CRM-M-11824-2021 (Avinash Sharma @ Banty vs. State of Haryana) has also been dismissed by a detailed order of even date. The petitioner in the present case is a foreigner and during investigation it has been revealed that the co-accused were all in

touch with each other. It has further been stated in the status-report that the co-accused Parveen was taken to Delhi on 30.12.2019 on police remand where he identified the petitioner from whom the heroin had been purchased. Thereafter, the present petitioner was arrested. The quantity recovered in the present case is a commercial quantity and hence the rigours of Section 37 of the NDPS Act would apply. During the course of investigation the call records of the petitioner revealed that the petitioner and the co-accused were all in regular touch and moreover the co-accused, who was taken to Delhi, had identified the petitioner and it was thereupon that the present petitioner was arrested.

In view of the above, I do not deem this to be a fit case for grant of regular bail. The petition is hence dismissed.

Any observation made herein shall not be treated as an observation on the merits of the case.

(ALKA SARIN)
JUDGE

25.10.2021
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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