

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11824-2021 (O&M)

Date of decision : 25.10.2021

Avinash Sharma @ Banty

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Ms. Garima Sharma, Advocate for the petitioner.

Ms. Ambika Sood, Addl. AG Haryana.

ALKA SARIN, J.

Taken up through video conferencing.

This is the third petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.351 dated 28.12.2019 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Urban Estate Hisar.

The facts relevant to the present case 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, heroin kept in a white polythene was recovered from the bag which was taken into possession. The heroin 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.

Learned counsel for the petitioner would contend that the petitioner has neither been named in the FIR nor he has been apprehended at the spot and further his name has surfaced only in the disclosure statement.

Learned counsel for the State has referred to the status report filed by way of affidavit of Sh. Ashok Kumar, HPS, Deputy Superintendent of Police, HQRS Hisar wherein it has been stated that the main accused- Parveen Kumar was arrested who suffered his statement wherein it was stated that on 28.12.2019 the petitioner gave him a packet of currency notes and dropped him at Peerangarhi Chowk, Delhi to receive the contraband and to hand over the money. The contraband was to be taken to the community center Sector 1/4 Hisar. On 29.12.2019 the petitioner was arrested. In his disclosure statement the petitioner stated that on 28.12.2019 he took Parveen, the co-accused, to Delhi in his car bearing No.HR-20AL-4914 and dropped him at Peerangarhi Chowk, Delhi and asked him to receive the heroin from one of his contacts. He pointed to a person standing near an Auto and asked Parveen to hand over the currency notes and receive the contraband. Thereafter, he asked Parveen to carry the contraband to

community centre Sector 1/4 Hisar. He further disclosed that the heroin was purchased by Parveen from a Nigerian person. On 30.12.2019, Parveen Kumar the co-accused was taken to Delhi on police remand where he identified the person from whom he had purchased the said heroin and upon this the said Nigerian person was also arrested on 30.12.2019 who had identified himself as Ugochukwu Uzar.

The first petition for grant of regular bail being CRM-M-14725-2020 was dismissed as withdrawn on 25.06.2020. On 03.09.2020 the second petition for grant of regular bail being CRM-M-25694-2020 was dismissed by a speaking order passed by this Court.

Learned counsel for the petitioner has not able to point out any change in circumstances since the dismissal of the last petition except for the period of custody. Period of custody alone cannot be a ground for grant of regular bail.

In view of the above, I do not find any merit in the present petition and, hence, the same is dismissed.

However, it is made clear that nothing observed herein shall be construed as an expression on the merits of the case.

25.10.2021

Yogesh Sharma

**(ALKA SARIN)
JUDGE****NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO**