

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23262-2021

DATE OF DECISION: JUNE 29, 2021

SHAHZAD

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. MANOJ PUNDIR, ADVOCATE FOR THE PETITIONER.
MR. SAURABH GIRDHAR, AAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.93 dated 4.4.2021, under Section 20 NDPS Act (Section 29 NDPS Act added later on), Police Station, Pratap Nagar, District Yamuna Nagar. The petitioner is in custody since his arrest on 5.4.2021.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Yamuna Nagar at Jagadhari, in the order dated 3.6.2021, are as under:-

“The above-mentioned FIR which was registered on the allegations that on 04.04.2021, Sub Inspector Raj Kumar alongwith EASI Ranbir Singh, HC Rajinder Kumar, EHC Pankaj kumar and Constable Amarjeet was present at Bus Stand, Village Arrianwala near Jagadhri-Poanta Sahib Road in connection with patrolling in a government vehicle bearing No.HR-02AL-1400 being driven by SPO Sukhvinder Singh when Sub Inspector Raj Kumar received a secret information that Ruksar

resident of village Chandpur is indulged in selling sulfa (charas). He is standing at Naka Tajewala Checkpost near Poanta Sahib road for the purpose of selling sulfa. If a raid would be conducted, accused could be apprehended red handed. Believing the information as correct, Sub Inspector Raj Kumar prepared a Notice under Section 42 of NDPS and sent the same to Ashish Chaudhary, HPS, Deputy Superintendent of Police, Bilaspur through EHC Pankaj Kumar. Thereafter, a tehrir was sent in the police station through Constable Amarjit for registration of case. Upon this, the present case FIR was lodged. Incharge, ANC, Yamuna Nagar was informed to send another investigating officer. Upon receipt of information, Sub Inspector Surinder Kumar reached at Bus Stand village Arrianwala near Jagadhri-Poanta Sahib Road. Copy of Notice under Section 42 of NDPS was handed over to Sub Inspector Surinder Singh by Sub Inspector Raj Kumar. Efforts were made to join the public persons in investigation but all of them showed their inability. Thereafter, Sub Inspector Surinder Kumar searched the police officials. The search of Sub Inspector Surinder Kumar was conducted by EASI Ranbir Singh but nothing incriminating could be found in their possession. Thereafter, a raiding party was formed and reached at Jagdhri-Poanta Sahib road Naka Tajewala. Secret informant gave signal to Sub Inspector Surinder Kumar that the boy standing near signboard at Poanta Sahib road is Ruksar. Thereafter, secret informant left the spot. Accused was apprehended.”

Learned counsel for the petitioner has argued that the alleged contraband (50 kgs. of Charas) was recovered from co-accused Ruksar, who was arrested on the spot and subsequently, on his disclosure statement, the

petitioner was indicted as an accused on the ground that the said contraband was purchased from the petitioner. Learned counsel further submits that the petitioner is not involved in any other case, much less of similar nature and since the investigation of the case is complete and the challan stands filed, therefore, his further custody may not be necessary. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by SI Mehar Chand, on the ground that the petitioner provided the contraband to the co-accused Ruksar. However, it is not disputed that the investigation of the case is complete and challan stands filed on 27.5.2021, but the trial is yet to commence.

After hearing the learned counsel for the parties and considering the above background, this court is of the opinion that the trial is at initial stage with no possibility of its completion in near future as the charges are yet to be framed and, therefore, his further detention behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 5.4.2021.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, concerned.

June 29, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No