

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

120+262

**CRM-42883-2021 in/and
CRM-M-36087-2021
Date of Decision: 15.12.2021**

Deepak

....Applicant/Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Sandeep Saini, Advocate for applicant/petitioner.

Mr. Amit Aggarwal, Deputy Advocate General, Haryana.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

CRM-42883-2021

Document (Annexure P/9) is taken on record, subject to all just exceptions.

CRM is allowed.

Main Case

Present petition under Section 439 Cr.P.C has been moved by petitioner-**Deepak** for grant of regular bail in case FIR No.222 dated 28.07.2020 under Sections 22 (c) of NDPS Act, Sections 27 (b) (ii) and 28 of Drugs and Cosmetics Act, 1940, and Sections 7 and 14-A of Foreigners Act, 1946, registered at Police Station Sector 56 , District Gurugram.

Learned counsel for the petitioner *inter alia* contends that allegations levelled against the petitioner are altogether false and frivolous and there is no iota of truth therein. He further submits that allegedly contraband (Clobazam 120 grams, Phenobarbitone 1432 grams and cash amount of Rs.35,50,000/-) were recovered from co-accused namely Awas and Akram Faiz, whereas petitioner has no nexus whatsoever with the alleged contraband. He further urges that petitioner was not named in the FIR, whereas his name surfaced in the array of accused on the basis of disclosure statements rendered by co-accused namely Awas and Akram Faiz. He further urges that petitioner is a first offender and he is not involved in any other case and except the disclosure statements of co-accused namely Awas and Akram Faiz, from whom allegedly recovery of contraband was effected, there is no other evidence against the petitioner to create his nexus with the commission of alleged offence. He further urges that even after the arrest of petitioner, no narcotic substance was recovered from him.

Learned counsel for petitioner while relying upon judgment **“Tofan Singh Versus State of Tamil Nadu, 2013 (4) RCR (Criminal) 631”** submits that it will be a debatable issue whether the disclosure statement made by the co-accused will be admissible against the petitioner or not. He further submits that co-accused Naveen Kumar Sharma @ Naveen Kumar has already been extended concession of regular bail by

this Court, vide order dated 23.11.2021 passed in CRM-M-30519-2021 (Annexure P/9). He further submits that petitioner is languishing in custody since 10.08.2020 and he is no more required by the Police for any investigation purpose as after completion of investigation, final report under Section 173 Cr.P.C. (*Challan*) has already been presented in Court and till date trial has not commenced. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition.

At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 10.08.2020; that petitioner is no more required by the Investigating Agency for investigation purpose; that *Challan* has already been presented in Court and since trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail.

In view of above, instant petition for grant of regular bail moved by petitioner-**Deepak** is allowed and he is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of Trial Court/ Chief Judicial Magistrate/Duty Magistrate, Gurugram, as the case may be.

(LALIT BATRA)
JUDGE

15.12.2021

Varinder Prashad

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No