

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

**Criminal Misc. No.M-36394 of 2020
Date of Decision: 09.02.2021**

Dharambir

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. J.S. Bedi, Sr. Advocate with
Mr. Sunil Sihag, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.154 dated 23.07.2020 under Sections 20(b), 29 and 68Y of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”), 42-A of the Prisoners Act, 1894 and Sections 7, 8, 13(1)(b) and 13(2) of the Prevention of Corruption Act, 1988 registered at Police Station Bhondsi, Gurugram.

The aforesaid FIR was registered on the basis of secret information received by the police. As per the FIR, Ravi alias Goldi, the co-accused of the petitioner in the case, who lives as a tenant in village Wazirabad, had gone to meet the petitioner, Deputy Superintendent, Jail living in Bhondsi Jail, government Quarters, who was having intoxicating substances in large quantity with him. It is alleged that the aforesaid Ravi

alias Goldi used to send intoxicating substances in jail through the present petitioner and in case a raid is conducted, then the aforesaid accused including the petitioner can be apprehended in his house along-with illegal intoxicating substance. On getting this information, senior officers were informed and were asked to come to the spot. Accordingly, a raid was conducted at Government quarter No.1-B, Bhondsi Jail. On entering the room, on right side, a middle-aged person and one young boy were sitting on the bed and were talking to each other. SI Raj Kumar, while disclosing his identity to both the persons, inquired about the antecedents from middle-aged person, who disclosed his name as Dharambir s/o Ganga Ram, the present petitioner, whereas the other young boy disclosed his name as Ravi @ Goldi s/o Shriram. As there was suspicion that the accused Dharambir and Ravi @ Goldi were having intoxicating substance with them, notices under Sections 42 and 50 NDPS Act were served upon them. The aforesaid accused submitted their replies separately to the notices, wherein, they claimed that search be got conducted through some Gazetted officer. During search, black colour intoxicating substance *charas sulfa* wrapped in white polythene was recovered from the pocket of the trouser worn by the petitioner, which was identified on the basis of smell and it was found to be total 12 *batia* (strips), which was taken into possession, as evidence. On weighing the same, it turned to be 110 grams. Apart from this, 11 sim cards wrapped in white polythene were also recovered from the pocket of shirt of the petitioner, out of which, 4 SIM cards were of JIO company whereas 7 SIM cards were of Vodafone

company, whereas from the search of other co-accused, different quantity, (as explained in the FIR) was recovered.

Learned senior counsel appearing for the petitioner has argued that apart from the fact that the petitioner has been falsely implicated in the case, there is a deep rooted conspiracy in the case. It is falsely alleged that the petitioner has purchased a Scorpio car from the money illegally collected by him from the convicts/undertrials so as to provide better facilities in jail. Moreover, the provisions of Sections 42 and 50 NDPS Act have not been complied with in the case. The recovery is planted. Even otherwise, the alleged recovery made in the case is 110 grams of *Ganja*, which is only 10 grams above the small quantity i.e. 100 grams. FSL report has been received in the case. The petitioner is in custody since 23.07.2020 and there is no other case pending against the petitioner. There are as many as 53 witnesses cited by the prosecution and in this manner, trial will take long time. Challan in the case has been presented but trial is not likely to be concluded in the near future, more particularly when charge has not been framed and the Covid-19 has also adversely affected the speedy trial, and therefore, the petitioner be released on bail.

Learned State counsel has opposed the present bail application on the ground that the allegations made against the petitioner are quite serious. She has submitted that a Deputy Jail Superintendent is not expected to indulge in such like activities, rather the petitioner should have checked such activities, so that such contraband may not enter the jail premises.

I have heard learned counsel for the parties.

As per the FIR, co-accused Ravi @ Goldi used to supply narcotic drugs to the petitioner at Bhondsi jail and the petitioner used to supply such like contraband to some of the prisoners in the jail. 110 grams of *charas* has allegedly been recovered from the petitioner along with 11 sim cards. The petitioner has also been booked under the Prevention of Corruption Act for collecting the illegal money from the prisoners so as to extend them various facilities in the jail. Considering the fact that the petitioner is custody since 23.07.2020 and there is no other case under the NDPS Act pending against the petitioner, coupled with the fact that trial in the case is not likely to be concluded in near future, as only challan has been presented and charge has yet not been framed in the case so far, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that observations made hereinabove shall not construe expression of any opinion on the merits of the case. Needless to say that the petitioner shall not try to influence the witnesses in the case directly or indirectly, in any manner. In case the prosecution finds that the petitioner is trying to influence the witnesses or complainant in any manner, it shall be at liberty to seek cancellation of his bail.

February 09, 2021
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No