

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

206

CRM-M-12741-2022 (O&M)

Date of Decision: 06.05.2022

RAKESH KUMAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.494, dated 23.12.2021 under Section 29-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Gandhi Nagar, District Yamuna Nagar.

Learned counsel appearing on behalf of the petitioner *inter alia* contends that as per the case of prosecution, one complaint was moved by Parveen Kumar, Drug Inspector against the co-accused Chander Shekhar, whereupon the Medical Store of said Chander Shekhar was inspected on 23.12.2021 and upon said inspection, he was found to be in possession of narcotic drugs and psychotropic substances of various descriptions and make. He contends that the said co-accused was arrested on the basis of the recovery. A disclosure statement of the said co-accused was recorded, wherein he initially named one Abdul Rehman; and thereafter a

supplementary disclosure statement was also recorded wherein the name of the present petitioner figured for the first time.

Learned counsel contends that no recovery has been effected from the petitioner pursuant to the alleged disclosure statement and as such, the disclosure statement has no productive value and is not admissible in evidence against the petitioner. He further submits that the petitioner does not suffer from any criminal antecedents. He points out that the petitioner is in custody since 26.12.2021. Even though the challan/final report has been filed, however, no proceedings have been initiated in the Trial Court as the FSL report is still awaited.

Mr. Ashish Yadav, Addl. A.G., Haryana, who is present in the Court, submits that commercial quantity of contraband has been recovered in the instant case and that a disclosure statement has been made by the co-accused from whose conscious possession the alleged recovery has been effected, and that he has sourced the said recovery from the present petitioner. The learned state counsel, however, could not dispute the fact that there is no recovery of narcotic drugs and substances from the petitioner except the recovery of Rs.1200/- only.

I have heard the learned counsel for both the parties and have considered the rival submissions.

From the above, it is evident that it remained controverted and undisputed that there is no recovery from the petitioner and that there is no link evidence to connect the alleged recovery of Rs.1200/- with the commission of the offence in question. The petitioner does not suffer from any criminal antecedents and is not involved in any other case. The investigation in the

instant case is already complete and the trial has not yet commenced and is held up for want of FSL report.

In view of the above and considering the totality of the facts and circumstances noticed above, I deem it appropriate to allow the instant petition.

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

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

06.05.2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No