

CRM-M-30653-2022

Date of Decision: November 11, 2022

Mohammad Shahvar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sarfraj Hussain, Advocate for the petitioner.
Mr. Tanuj Sharma, DAG, Haryana.

AMAN CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.127 dated 02.05.2021, under Sections 18(A), 18(C), 27(b)(ii) of Drugs and Cosmetics Act, 1940, 51 (B) of Disaster Management Act 2005 Sections 3 &7 of Essential Commodities Act, 1955, & 420/34 of the IPC, 1860 , registered at Police Station Urban Estate, Hisar.

Learned counsel for the petitioner contends that the name of the petitioner surfaced in the disclosure statement made by co-accused namely, Ajay Kumar, who has since been granted regular bail by this Court vide order dated 07.02.2022 in ***CRM-M-51667-2021*** on the ground that he had been in custody for last 05 months and 16 days and that he was on bail in another similar FIR. He submits that the aforesaid co-accused -Ajay Kumar was implicated on the disclosure statement of co-accused-Gurmeet Singh, who has also since been granted regular bail vide order dated 22.12.2021 in ***CRM-M-44535-2021*** after having been in judicial custody for 05 months and 18 days. He submits that in the aforesaid order, it was recorded that even the co-accused- Parth Khurana and Arun Khurana, who had been named in the FIR have have also been granted regular bail for having been in custody for almost for the same period. He further submits that

the petitioner has been in custody for the last 05 months 10 days. Charges in the case have been framed, but no witness has been examined. For offences under Sections 18(A), 18 (C), 27(b)(ii) of Drugs and Cosmetics, a complaint is maintainable and not FIR. He places reliance on the judgment dated 4.4.2022 in CRM-M-7379-2022 passed by this Court wherein the FIR registered under the aforesaid Sections as also under Section 420, 467, 468, 471 of the IPC was quashed.

Contrarily, learned State counsel has opposed the bail and on instructions of ASI Madan Singh has submitted that the petitioner was the person who has manufactured the drug supplied to the other co-accused and he is involved in eight more cases. He is however, unable to controvert the fact that the charges have been framed, but out of total 18 witnesses, none has been examined, the petitioner is in custody for last 05 months and 10 days, as also that co-accused, who had disclosed his name and the one who were named in the FIR have all been granted regular bail after having been in judicial custody for almost the same period as that of the petitioner.

I have heard learned counsel for the parties.

In view of the facts and circumstances of the case, in particular that the petitioner has been in custody for last 05 months and 10 days; similarly placed co-accused, who had named him in the disclosure statement as also those who were named in the FIR have since been granted regular bail after having been in judicial custody for the same period as that of the petitioner; out of 18 PWs, none has been examined yet; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus, the present petition for grant of regular bail deserves to be allowed.

Resultantly, the present petition is allowed. The petitioner is ordered

to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The petitioner shall not in any manner misuse his liberty.
7. Any infraction shall entail in withdrawal of the benefit granted by this Court.
8. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
9. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in that regard.

It is made clear that in case of breach of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

November 11, 2022
Monika

(AMAN CHAUDHARY)
JUDGE

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