

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-2745-2023 (O&M)

Date of decision: 28.08.2023

ARJUN @ TUTI

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Kamal Chaudhary, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.SHEKHAWAT. J.(Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.233 dated 29.07.2022 registered under Sections 22(C), 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 18(C) of the Drugs and Cosmetics Act, 1940 and Section 201 of IPC, 1860 added later on) at Police Station Saha, District Ambala.

2. In the present case, the FIR was registered on the basis of a secret information and two accused namely Rinku and Ankit Kumar were arrested on 29.07.2022 and 800 injections of buprenorphine and 800 injections of pherniramine Maleate Injunction IP (Avil) were recovered from them. After their arrest, Rinku and Ankit had suffered their disclosure statements and on the basis of the same, Gaurav @ Kala was arrested on 31.07.2022. As per the prosecution, Rinku again suffered disclosure statement in Police custody and stated that Vivek @ Vicky had allegedly supplied the contraband to Rinku. On the basis of the

disclosure statement suffered by Rinku, Vivek @ Vicky was arrested on 04.10.2022. Subsequently Vivek @ Vicky also suffered a disclosure statement and he named the petitioner in the said statement. The petitioner was arrested by the Police on 07.10.2022.

3. Learned counsel for the petitioner contends that the petitioner was not named in the present case and has been nominated as an accused on the basis of disclosure statement suffered by Vivek @ Vicky. Even, as per the case set up by the prosecution, the petitioner had procured the SIM for a mobile phone on a fake ID and gave it to the co-accused Vivek @ Vicky, so that he may use it for the business of selling the contraband illegally. Learned counsel for the petitioner further contends that the petitioner was arrested in the present case on 07.10.2022 and is in custody for the last more than 10 months. Learned counsel further contends that petitioner is a first offender and was not involved in any other criminal activity in the past. Learned counsel further contends that the present case is listed for framing of charges on 26.09.2023 and the trial Court may take considerable time in concluding the trial proceedings.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the alleged recovery of the contraband from the co-accused is commercial in nature and the petitioner was already part of the same gang, which was involved in the illicit business of the contraband and does not deserve the concession of bail.

5. I have heard the learned counsel for the parties and perused the record.

6. As per the case of the prosecution, the recovery was only effected from Rinku and Ankit and on the basis of disclosure statement suffered by Rinku,

Vivek @ Vicky was arrested, who had further named the petitioner. Petitioner is in custody for the last more than 10 months and his custody will not serve any purpose. No recovery was effected from him.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

(N.S.SHEKHAWAT)
JUDGE

28.08.2023
Amandeep

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