

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4071-2023 (O&M)

Reserved on 25.08.2023

Pronounced on: 31.08.2023

Mohit

. . . . Petitioner

Vs.

State of Punjab

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. P.S. Ahluwalia, Advocate, for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

DEEPAK GUPTA, J.

CRM-28691-2023

Application is allowed.

Statement of PW-1 is taken on record as Annexure P8.

CRM-M-4071-2023

Prayer in this petition is for grant of regular bail in case FIR No.45 dated 07.03.2022, registered at Police Station City Kotkapura, District Faridkot, under Sections 22(c)/29/61/85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act'].

2. As per prosecution allegations, petitioner was apprehended by a police party on 07.03.2022 at about 11:45 AM; and that 16800 intoxicating tablets of Alprazolam were recovered from his possession.

3. (i) It is contended by ld. counsel that petitioner has been falsely implicated, inasmuch as petitioner had been apprehended by the CIA staff on 06.03.2022 itself. Ld. counsel contends that the sequence of

events projected by the Investigating Officer to the effect that he left the police station 10:35 AM and that petitioner was apprehended at 11:45 AM is belied by the fact that a Writ petition for Habeas Corpus bearing number CRWP-2028-2022 had already been instituted in this High Court on 07.03.2022 on account of wrongful detention of the petitioner by the officials of the CIA staff on 06.03.2022. Ld. counsel has drawn attention towards the report Annexure P4, obtained from the Joint Registrar (Rules)-cum-Public Information Officer of this Court, as per which CRWP-2028-2022 filed by the father of the petitioner, alleging the illegal detention of the petitioner by the CIA Staff in the evening of 06.03.2022, had been filed in the High Court on 07.03.2022 at 10:07 AM and therefore, prosecution allegations to the effect that petitioner was apprehended at 11:45 AM on 07.03.2022 are completely falsified, showing his false implication.

(ii) Ld. counsel further contends that petitioner was falsely implicated due to an altercation on 6.3.2022 with an official of CIA staff, Faridkot. Still further, it is contended that DSP, Lakhbir Singh, in whose presence the recovery is alleged to have been effected, is currently in custody in connection with an FIR registered against him on account of having registered false FIRs under NDPS Act, regarding which petitioner placed reliance upon a newspaper cutting published in 'Hindustan Times' as Annexure P6.

(iii) It is further contended that petitioner has no criminal antecedents and so, in all these circumstances, prayer is made for grant of regular bail.

4. (i) Opposing the bail petition, Id. State counsel contends that contraband of commercial quantity has been recovered from the possession of the petitioner on 07.03.2022 by the CIA staff, in the presence of DSP, Lakhbir Singh.

(ii) Ld. State counsel drawn attention towards the reply dated 25.08.2023 filed by way of affidavit of Shamsheer Singh, PPS, Deputy Superintendent of Police, Sub Division Kotkapura, District Faridkot, in which it is denied that any altercation took place between the petitioner or any officials of CIA Staff on 06.03.2022 or that petitioner was apprehended on 06.03.2022. It is further submitted that the Writ of Habeas Corpus did not reach at any logical conclusion and that the same had been filed by the father of the petitioner in anticipation of apprehension, as petitioner used to come to the area of Kotkapura and Jaitu to supply heavy quantity of synthetic drugs and thus, resorted to Writ of Habeas Corpus as a precautionary measure.

With above submissions, prayer is made for rejecting the bail application.

5. (i) Rebutting the above said contentions, Id. counsel for the petitioner has drawn attention towards the sequence of events with the help of a table to point out that as per the Roznamcha Register (Annexure P3), Police party left the Police Station at 10:35 AM on 07.03.2022 and apprehended the petitioner at 11:45 AM; and that after arrival of the Gazetted Officer, DSP, Lakhbir Singh, search was conducted at about 1:15 AM and then FIR was registered at 3:45 PM. Ld. counsel contends that Writ of Habeas Corpus had been instituted on 07.03.2022 at 10:07 AM itself.

(ii) Still further, Id. counsel has drawn attention towards the statement of SI Sukhdarshan Sharma (Annexure P8), recorded during trial, in which he made certain admissions to the effect that he was not available with Inspector Harbans Singh on 06.03.2022 when dispute arose between the accused (petitioner) and Harbans Singh. So much so, during cross-examination, he admitted that as and when they went outside the CIA staff, they used to enter DDR in this regard and that on 06.03.2022, they had done the same when the accused was detained by them on 06.03.2022. Id. counsel contends that these admissions appearing in the statement of PW1 SI Sukhdarshan Sharma, fortifies the stand of the petitioner regarding his false implication.

6. I have considered submissions of both the sides and have appraised the record.

7. CRWP-2028-2022 had been filed by the petitioner through his father regarding his illegal detention on 07.03.2022 and the said CRWP was filed in the High Court at 10:07 AM as per the report Annexure P3 of the Joint Registrar (Rules)-cum-Public Information Officer of this High Court. It has been specifically mentioned in the said CRWP that petitioner had been apprehended by the officials of CIA staff, Faridkot. Apprehension of the petitioner with contraband has been projected by the Investigating Officer on 07.03.2022 at 11:45 AM. It is hard to believe that petitioner could know in advance that he was going to be apprehended by the officials of CIA staff, Faridkot and so, as a precautionary measure he had filed the CRWP in advance. Although, it will not be appropriate to comment on the statement of PW1 SI Sukhdarshan Sharma (Annexure P8) made during trial, lest it prejudices

the ld. trial Court, but at the same time, the admissions made by him, as pointed out by Ld. Counsel for the petitioner, cannot be ignored at this stage.

8. No doubt that the quantity of contraband, allegedly recovered from the petitioner, falls in the commercial category, but having regard to all the facts and circumstances as noted above, and custody period of the petitioner inasmuch as he is in custody for the last more than 1 year and 5 months, but without commenting anything further on merits of the case, petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of Ld. trial Court/Duty Magistrate concerned.

Allowed.

(DEEPAK GUPTA)
JUDGE

31.08.2023

Vivek

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |