

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

CRM-M-7982-2023

Date of Decision: 01.05.2023

Sahil

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Nikhil Chopra, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.381 dated 20.10.2022, registered under Sections 21, 27-A and 29 of NDPS Act, at Police Station Sadar Jhajjar, District Jhajjar.

As per facts of the case, the FIR was registered on the statement of ASI Sanjay Kumar, wherein, it was alleged that while on patrolling they received a secret information that Ravinder son of Prem Singh and Bindu son of Pritam Singh are indulging in selling intoxicating substance heroin/chitta and they are coming in a car bearing No.HR-19R-4845 and if naka is laid, they can be arrested. On finding the secret information reliable, formalities under Section 42 NDPS Act were completed and naka was laid. Both the accused Ravinder and Bindu were arrested with Alto Car. On their search, 45 grams of heroin was recovered from the dash board of the car. They failed to show any licence for possession of the same and thus, were arrested for the offence under Sections 21, 27-A, 29 of the NDPS Act. Samples taken were sent to the FSL. During their investigation, they made

disclosure about third accused, namely, Sahil i.e. the petitioner. The contraband recovered was purchased from Sahil and thus, Sahil i.e. the petitioner was arrayed as in accused and was arrested on 20.10.2022. The petitioner approached the Court of learned Additional Sessions Judge, Jhajjar for grant of bail, who, after hearing the parties, declined the same vide order dated 23.11.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that false implication of the petitioner is evident from the facts and circumstances of the case. He has submitted that neither the petitioner was named in secret information received nor he had been arrested on the spot. He submits that during the investigation of the co-accused arrested on the spot, namely, Ravinder and Bindu, their disclosure statement was recorded and on the basis of the same, the petitioner was implicated in this case. He submits that the disclosure made by the co-accused is not an admissible evidence and thus, the same cannot be relied upon for complicity of the petitioner in this case. He submits that even otherwise recovery made from the co-accused is 45 grams heroin, which falls under non-commercial quantity as per the schedule in the NDPS Act. He submits that the petitioner has already completed incarceration of about 6 months and the investigation is also complete. He further submits that the petitioner has never been involved in any other case of the similar nature and thus, he has clean antecedents. He submits that in the facts and circumstances, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and on instructions

from ASI Mukesh Kumar has submitted that though the petitioner was not named in the secret information, however, during the investigation of co-accused, his complicity was found in the present case and on account of the same, he was also arrayed as an accused. He submits that it is a matter of trial to be appreciated by the trial Court as to whether the petitioner is falsely implicated or not. He submits that the investigation is complete and challan is already filed and the case is now fixed for framing of charges on 22.05.2023. He submits that FSL report is also received and the contraband is confirmed to be heroin.

After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner has been named in this case on the basis of disclosure statement of the co-accused. The contraband recovered from the co-accused is 45 grams of heroin, which falls in the non-commercial quantity. As the quantity recovered is non-commercial, sentence can be upto 10 years of imprisonment, however, there is no minimum sentence. There is nothing on record to show that the petitioner is a habitual offender. The veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion
on the merits of the case.

01.05.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No