

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-25997-2022 (O&M)
Date of Decision:- 01.02.2023

Anil Kapoor

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashok Gupta, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks regular bail in a case registered vide FIR No.45, dated 05.02.2021, Police Station Sector 5, Panchkula, under Sections 20/29 of NDPS Act and Sections 7, 20(2) of COTPA Act, 2003.
2. As per the case of the prosecution on 05.02.2021, the police received secret information to the effect that one Anil Kumar was possessing cigarettes without any price-label and without the statutory warning required to be displayed and as a matter of fact he was possessing huge quantity of cigarettes of different makes in his house and that supplies the same from his house itself. Pursuant to receipt of said information, a raid was conducted at the house of said Anil Kumar and after checking 60 pieces of ESSE Golden leaf cigarettes, 1200

packets of cigarettes, 69 packets of Mond Variance Blueberry Menthol cigarettes containing 1380 cigarettes, 29 packets of Mond Paan cigarettes containing 580 cigarettes, 20 packs of Paris cigarettes containing 400 cigarettes, 170 packets of DJARUM Black cigarettes containing 3400 cigarettes, 48 Packets of IN Black Cigarettes containing 768 Cigarettes, 20 Packets of WIN Cigarettes containing 400 Cigarettes, 240 Packets of PINE Cigarettes containing 4800 Cigarettes, 60 Packets of ESSE Lights Cigarettes containing 1200 Cigarettes and 20 Packets of ESSE Special Gold Cigarettes in which 400 cigarettes were found. A total of 736 packets of cigarettes of different brands, including 14528 cigarettes which were without warning were recovered. It is further the case of prosecution that during the course of interrogation, aforesaid Anil Kumar suffered a disclosure statement, wherein he disclosed that Anil Kapoor used to supply tablets of *Charas*, *Bhang* and cigarettes and that previously he had been procuring the same from Munna @ Pradeep Jain. He further disclosed that he used to purchase *biri*, cigarettes, toffees etc. of local companies and after mixing the tablets used to sell the same without there being any printed price or warning. He further stated that Anil Kapoor had given him 6 kgs of *Charas*.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and has been nominated as an accused on the basis of disclosure statement allegedly made by co-accused which would not carry any evidentiary value and that when the petitioner was apprehended by the police, nothing incriminating

was recovered from him so as to connect him with the alleged offence.

4. Opposing the petition, learned State counsel has submitted that although no contraband was recovered from the petitioner but, the police has been able to collect call details record, which shows that the petitioner as well as co-accused Anil Kumar from whom huge recovery was effected had been conversing with each other over telephone and that the said evidence would show that the petitioner himself was into drug trafficking. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 10 months and otherwise is not involved in any other case.
5. This Court has considered the rival submissions.
6. It is not disputed that it is only Anil Kumar against whom there was secret information and who was apprehended when a raid was conducted at his house and contraband was recovered from him. The petitioner came to be nominated on the basis of a disclosure statement and pursuant to which he was apprehended but no contraband is stated to have been recovered from his possession. Though, as per the case of prosecution, some call details record indicate that the petitioner was in touch with co-accused Anil Kumar, but it will be debatable as to whether the said evidence along with the disclosure statement would be sufficient to hold that the petitioner was into drug trafficking, particularly when he is not stated to be involved in any other case previously. The petitioner has been

behind bars since the last about 10 months. Conclusion of trial is likely to consume time as only one PW is stated to have been examined after re-framing of charges. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

01.02.2023
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No