

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25117-2023
Reserved on: 11.09.2023
Pronounced on: 13.09.2023

Mohit

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ashish Kumar, Advocate, for the petitioner.

Mr. P.K. Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for grant of regular bail in case FIR No.180 dated 12.04.2022 registered at Police Station Kalanaur, District Rohtak, under Sections 22/29/27A/60 of the Narcotics Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act'].

2. It is contended by ld. counsel that as per prosecution allegations, 220 kg of ganja was recovered on 12.04.2022 from one KIA Seltos car by a police party, which had reached the spot on the basis of secret information. The secret information was against Satish, the driver of the car, who had fled away. Ld. counsel contends that petitioner is not named in the FIR and has been nominated only on the basis of disclosure statement of co-accused Satish, which is inadmissible. Two co-accused Jai Prakash @ J.P. & Virender @ Ravinder have already been allowed bail. It is further contended that petitioner has no criminal antecedents and that he is in custody ever-since the

date of his arrest on 05.09.2022 and so, in all these circumstances, he be allowed regular bail.

3. (i) Strongly opposing the bail petition, ld. State counsel has drawn attention towards the detailed status report filed by way of affidavit of Sh. Sandeep Kumar, Deputy Superintendent of Police, Meham, District Rohtak, as per which secret information was received by police party headed by ASI Anil on 12.04.2022 to the effect that Satish, resident of Jind, a supplier of Narcotics substance, was coming from the side of Beri road in vehicle bearing Registration No. HR-16X-3768 model KIA Seltos with narcotics substance and going towards Meham and if check-post is set up, he could be apprehended. Necessary notice under Section 42 of the NDPS Act was sent. A check-post was set up at the college turn, Kalanaur. After some time, the vehicle in question was seen coming from the Beri road. ASI Anil tried to stop the vehicle with the help of other officials, but the driver broke the check-post and fled towards Meham. Police party chased him. However, driver of the vehicle KIA Seltos left the vehicle in the pits by side of the road near railway crossing and fled away from the spot. Upon search of the vehicle, 11 plastic bags, containing 20 kg each of ganja i.e. total 220 kg ganja, were recovered from the boot of the vehicle. After making necessary formalities, recovered contraband was taken into possession and on the basis of rukka sent to the police station, FIR in question was registered.

(ii) Status report further reveals that on 24.04.2022, driver of the aforesaid KIA Seltos car namely, Satish was arrested. On interrogation, he suffered disclosure statement, as per which the vehicle was provided to him by Virender @ Ravinder, who had asked him to bring Ganja from Jagdalpur, Chhatisgarh to village Putthi, District Hisar and had offered to pay him

₹40,000/- per trip. One Vijay s/o Raje had provided him ATM, which was to be given to brother of Monu, on reaching the destination. Satish further disclosed that Aman, Ankit, Pota and JP were to guard his KIA Seltos car. Satish disclosed further that he accompanied Mohit (petitioner) from Bus Stand, Jind in KIA Seltos car and along with him went to Jagdalpur, Chhatisgarh and brought 220 kg. Ganja. On the way Ankit also occupied the KIA Seltos car and when they reached at Kalanaur Railway Crossing, he left the car in roadside ditches after seeing the police party and at that time Mohit and Ankit were also with him.

(iii) Ld. State counsel contends that on the basis of aforesaid disclosure statement, Virender @ Ravinder and Jai Parkash @ J.P. were arrested. Call detail records of the mobile of Virender @ Ravinder, Jai Parkash @ J.P., Aman, Vijay, Mohit @ Gogi and Satish were obtained. Their tower location details were also taken and it was found that all of them were in conversation with each other at the relevant time. On 05.09.2022, petitioner Mohit was arrested and he suffered disclosure statement, as per which he too had accompanied Satish to bring the ganja from Jagdalpur, Chhatisgarh and that when the co-accused Satish left the car in the ditches after being chased by the police party, he too had fled from the spot.

(iv) Ld. State counsel further drawn attention of this Court towards the customer application form revealing that mobile number 93504-73503 is in the name of petitioner-Mohit and that as per the call detail records, annexed with the status report filed by the police, the location of the petitioner was in Chhatisgarh on 10.04.2022 and location of the his mobile was at Kalanaur District Rohtak on 12.04.2022. Ld. State counsel contends that all these details corroborate the information as supplied by co-accused Satish in his

disclosure statement to the effect that petitioner-Mohit had accompanied him to bring the contraband from Jagdalpur, Chhatisgarh.

(v) By further pointing out towards recovery of commercial category of contraband in the case and the bar contained in Section 37 of the NDPS Act, Id. State counsel prayed for dismissal of the petition.

4. Refuting the aforesaid contentions, Id. counsel for the petitioner submits that no recovery has been effected from the petitioner; that co-accused Jai Parkash @ J.P. and Virender @ Ravinder have already been allowed regular bail by Coordinate Bench of this Court vide two separate orders dated 17.04.2023, Annexures P3 & P4; that petitioner has no criminal antecedents and so, in all these circumstances, petitioner deserves to be given benefit of regular bail.

5. Having considered submissions of both the sides, this Court is of the view that petitioner does not deserve to be given the benefit of bail. It is true that as per prosecution, no recovery has been effected from the petitioner nor he was arrested from the spot. However, recovery of commercial category of contraband i.e. 220 kg of ganja was effected from the co-accused Satish, who in his disclosure statement clearly informed that he was accompanied by petitioner-Mohit, when he brought the contraband from Jagdalpur, Chhatisgarh. As per the disclosure statement of Satish, he accompanied by petitioner had gone to Chhatisgarh on 10.04.2022 and they were returning on 12.04.2022. This information, as supplied by the co-accused-Satish, is not only further corroborated by the own disclosure statement of petitioner, as annexed with status report of the police, but is further corroborated by the customer application form and the call detail records to be read with the tower location, of the mobiles of the petitioner and the co-accused.

6. Thus, it cannot be stated at this stage that disclosure statement of petitioner and that of co-accused is not admissible. Said disclosure statement is prima-facie admissible under Section 27 of the Evidence Act, as it has led to the discovery of fresh information, which was not available with the investigation agency earlier and which information is supported by the customer application form and the call detail records to be read with the tower location, of the mobiles of the petitioner and the co-accused.

7. Having regard to all the aforesaid facts and circumstances, but without commenting anything further on merits of the case, this court finds the petitioner to be not entitled for grant of regular bail. As such, present petition is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

13.09.2023

Vivek

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