

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-35201-2023****Date of decision : 08.11.2023****Shyam Lal****.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :- Mr. Sanjiv Sheoran, Advocate
for the petitioner.****Ms. Upasana Dhawan, AAG, Haryana assisted by
ASI Rajender, Faridabad.***********RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court by way of present second petition praying for grant of regular bail in case FIR No.30 dated 17.01.2020, under Section 20 of NDPS Act, 1985, registered at Police Station Kotwali, District Faridabad, Haryana.

As per facts of the case, a secret information was received by the police wherein it was informed that Yashpal resident of Himachal Pradesh and Sandeep are involved in the business of selling sulfa (charas) and if naqa is laid then they can be apprehended along with the contraband. In view of the secret information received, ASI along with his team held a naqa at the main gate of Escorts Hospital, Neelam Chowk. Thereafter, one young person came from the side of Neelam Chowk and alighted from auto rickshaw carrying one bag. In the meantime, another young person came in white colour Swift Car bearing No.HR30Q4267. The police party apprehended them and on their asking, they disclosed their names as Yashpal and Sandeep. Notice under Section 50 of NDPS Act was given to them and on recording their consent, ACP Badkhal Faridabad was called

on the spot. The search of the bag was conducted and sulphur weighing 3 kg 80 grams was recovered from them. Both the persons failed to show any license for keeping the prohibited contraband and thus, the case was registered and both of them were arrested on spot. On registration of the FIR, investigation commenced and the samples were taken which were sent to FSL. During investigation, the disclosure statement of Yashpal was recorded wherein he disclosed the name of Shyam Lal i.e. the present petitioner and stated that the contraband has been purchased by them from him. Thus, he was also arrayed as an accused in the FIR and was arrested in this case on 14.11.2022. He approached the Court of learned Additional Sessions Judge, Faridabad praying for grant of bail. However, learned Additional Sessions Judge, dismissed the same vide its order dated 01.03.2023. Thereafter, the petitioner approached this Court by way of filing CRM-M-14416-2023, however, the same was dismissed as not pressed vide order dated 27.03.2023. Hence, the petitioner is before this Court by way of filing the present second petition for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that petitioner was neither named in the secret information nor he was arrested on spot. However, he submits that during investigation, name of the petitioner surfaced in this case from the disclosure statement made by co-accused namely, Yashpal. He submits that disclosure statement made by the co-accused is an inadmissible evidence. He submits that though the petitioner was implicated in another FIR under the NDPS Act for the alleged recovery of 250 grams of opium, however, the petitioner has been acquitted in the same. It is submitted that the investigation is complete and the charges are framed and thereafter, learned trial Court has examined majority of the witnesses. It is submitted that there is no credible evidence against the

petitioner in this case. He further submits that even if the petitioner is shown to be involved in other cases, the same cannot be a ground for rejection of the bail as per the law settled and hence, petitioner deserves to be granted bail.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. She has submitted that the name of petitioner though has surfaced on the disclosure of the co-accused, however, quantity weighing 3 kg 80 grams has been recovered from the co-accused which is a commercial quantity. She submits that as per her information, petitioner is involved in two more cases i.e. FIR No.312 dated 27.12.2008 under Section 18 of NDPS Act and FIR No.328 dated 06.06.2022 under Section 174-A of IPC. She submits that in all, there are 25 prosecution witnesses, out of which, 11 witnesses have already been examined. She has submitted that petitioner was declared proclaimed offender and hence, he was arrested later on, on 14.11.2022. She has submitted that there is no ground for grant of regular bail to the petitioner.

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

Evidently, the present FIR was registered on the basis of secret information received by the police. Name of two co-accused namely, Yashpal and Sandeep were mentioned however, the name of petitioner was not mentioned in the secret information. During investigation, name of the petitioner has been figured as an accused in this case on the basis of disclosure statement of co-accused. Petitioner was arrested on 14.11.2022. As submitted before this Court, though the petitioner was involved in one more case under the NDPS Act, however, he has been acquitted in the same. In all, there are 25 prosecution witnesses, out of which, 11 witnesses already stand examined.

The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

08.11.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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