

224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35760-2023

Date of Decision:30.10.2023

Girish Kumar Pahwa

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Vinod K. Kataria, Advocate, for the petitioner.

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.57 dated 30.04.2023 registered under Sections 22/61/85 of NDPS Act and Sections 473, 483 of IPC, at Police Station Banurr, District Patiala.

2. As per case of the prosecution, on 30.04.2023, a police party headed by ASI Mohammad Nasim was present for patrolling and checking of anti social elements and at about 3.00 am on 30.04.2023, a person was seen coming on a motorcycle, who was carrying a plastic polythene bag on his motorcycle. On seeing the police party, he got perplexed and tried to turn back his motorcycle. When he was intercepted by the police team and on suspicion, he was apprehended at the spot. On inquiry by the police team, he disclosed his name and address as Bittu Kumar son of Late Babu Ram, resident of Ward No.11, Bajwa Colony, Police Station Banur, District Mohali and on his search, 1000 intoxicant tablets and Rs.15000/- of drug money were recovered from him. It has been further

alleged that during the course of investigation, Bittu Kumar suffered a disclosure statement that he had purchased 1000 intoxicant tablets from Girish Kumar Pahwa, owner of Shiv Medical Store, Banur.

3. Learned counsel for the petitioner submits that the petitioner was not named in the present FIR and has been falsely involved only on the basis of suspicion. He further contends that the petitioner is running a pharmacy shop at the distance of about 200 yards from the Police Station, still he was not arrested for a period of more than one month and was illegally taken into custody on 10.06.2023. Learned counsel further contends that except the disclosure statement suffered by co-accused in Police custody, there is no other evidence against him and the veracity of the said statement is yet to be adjudicated by the trial Court during the course of trial proceedings. He further contends that the petitioner is in custody since 10.06.2023 and after completion of investigation, the final report under Section 173 Cr.P.C. has already been presented before the Competent Court. Learned counsel further contends that only charges have been framed against him and the conclusion of the trial proceedings may take quite a long time. He further contends that the petitioner is a first offender and is a senior citizen. Thus, his case requires sympathetic consideration by this Court.

4. A short reply by way of an affidavit of Deputy Superintendent of Police, Sub-Division Rajpura, District Patiala has been filed on behalf of the respondent and the same is taken on record. Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had supplied the contraband to main accused Bittu Kumar and his involvement has been established during the course of investigation.

5. I have heard learned counsel for the parties and perused the record.
6. It is apparent that the petitioner was arrested by the police after more than one month of the registration of the FIR and even after his arrest, no recovery was effected from him. At this stage, the investigation has been completed and the trial proceedings may take quite a long time to conclude. Thus, further custody of the petitioner will not serve any meaningful purpose.
7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

30.10.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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