

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

CRM-M-42172-2023

Date of Decision: 14.11.2023

Lokender Singh

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amit Choudhary, Advocate, for the petitioner.

Mr. Manish Dadwal, Assistant Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present second petition is for the grant of regular bail to the petitioner in a case FIR No.450 dated 17.07.2021, registered under Sections 20, 29 of NDPS Act, at Police Station Samlakha, District Panipat.

Adumbrated facts of the case are that on the basis of secret information received that Narendra son of Dharm Singh and Upendra son of Hoshiyar Singh were coming in Santro Car bearing registration No.UK-07BB-8042 from Delhi side with the contraband, a naka was laid. The Police stopped the car at Naka and two persons were found inside the car. On asking their name, one who was sitting on driving seat, disclosed his name to be Narendra son of Dharm Singh and other one sitting on the passenger seat disclosed his name as Upendra son of Hoshiyar Singh. In compliance of Section 50 of the NDPS Act, the car was searched. On the search of the car, 55 Kilo 590 grams Ganja was recovered from two sacks lying in the car. The accused failed to produce any licence for carrying the same and both were arrested on the spot. During the investigation, they disclosed about Lokender i.e. the petitioner and thus, he was also arrayed as

an accused in this case. The petitioner was arrested on 29.11.2022. Investigation was completed and charges were framed and the trial commenced. The petitioner approached the Court of Additional Sessions Judge, Panipat praying for grant of bail, however, the same was declined vide order dated 14.02.2023. Thereafter, the petitioner approached this Court by way of filing CRM-M-11578-2023, however, the same was dismissed as not pressed vide order dated 14.03.2023. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the FIR has been registered on the basis of secret information and the petitioner was not named in the secret information received. He submits that co-accused Narendra and Upendra were arrested by the police alongwith the contraband, however, the petitioner has been arrayed as an accused in this case on the basis of the disclosure statement of the co-accused, who were arrested on the spot. He submits that disclosure statement made by the co-accused is not an admissible evidence. He has submitted that the petitioner has been alleged to be the owner of the car from which the alleged contraband was recovered from the co-accused. He submits that the petitioner had already sold the car to Narendra and thus, at the time of occurrence the petitioner was not the owner of the car. He has submitted that co-accused Narendra to whom the car was sold, was arrested alongwith contraband. He has further submitted that both the co-accused who were arrested on the spot alongwith the contraband, have already been granted bail by this Court vide orders dated 29.08.2023 and 15.09.2023. It is submitted that there is no direct evidence against the petitioner and once the

co-accused arrested on spot, have been enlarged on bail, the petitioner deserves to be granted bail as well.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that co-accused have specifically named the petitioner in this case. It is submitted that the petitioner was the owner of the car from which the contraband has been recovered, however, only to wriggle out of the case, it has been contended that the petitioner sold the car to co-accused. He submits that the investigation has been completed in this case and the allegations against the petitioner were found to have been substantiated and thus, challan was presented. He has submitted that the charges are framed and out of 19 prosecution witnesses, only 1 witness has been examined so far. He has fairly submitted that the co-accused have been granted bail in this case. On instructions from ASI Satwinder Singh, he has submitted that the petitioner is not involved in any other case except the present case.

Heard.

Evidently, the FIR has been registered on the basis of secret information and the co-accused, namely, Narendra and Upendra were arrested on the spot. The petitioner neither was named in the secret information nor any recovery of contraband was effected from his conscious possession. However, during the investigation his name was surfaced on the basis of disclosure statement of the co-accused. There is nothing on record to show that the petitioner is involved in any other case of the similar nature. Admittedly, both the co-accused have already been granted bail by this Court vide orders dated 29.08.2023 and 15.09.2023 and the petitioner is claiming parity with them. Whether the petitioner is the owner of the car is a

matter of evidence which lies in the domain of the trial Court. 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, this Court is 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.

Considering that the trial would take sufficiently long time in its conclusion, 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 on his furnishing local surety.

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

14.11.2023
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No