

220-2 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 8th February, 2023

CRM-M-49525-2021 (O&M)

Amandeep

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Virender Soni, Advocate for the petitioner.

Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

AVNEESH JHINGAN, J.(Oral)

1. This petition is filed seeking regular bail in FIR No. 388, dated 18.12.2020, under Section 15(c), 18, 27-A, 29 of Narcotic Drugs and Psychotropic Substances, 1985 (for short 'the Act') and Section 201 IPC, registered at P.S. Uchana, District Jind.

2. Learned counsel for the petitioner submits that two FIRs arose from an incident of alleged transportation of narcotic substances from Madhya Pradesh to Haryana. The petitioner was granted bail in another FIR No. 392 by this Court vide order dated 12th December, 2022 and submits that allegations were similar. He submits that petitioner is in custody since 24.12.2020.

3. The following order was passed by this Court on 12th December, 2022 in CRM-M-49553-2021 and connected cases:-

'These five petitions are filed seeking regular bail in case of FIR No. 392 dated 24.12.2020, under Sections 15(c), 25, 29, 59, 18, 27-A of NDPS Act, 1985 and Sections 7, 7-A, 8 of the Prevention of Corruption Act, 1988 and Sections

192, 196, 201, 202, 203, 217, 409, 166-A, 120-B of IPC, 1860 (Sections 18, 27-A of NDPS Act, 1985 and Sections 7, 7-A, 8 of Prevention of Corruption Act, 1988 and Sections, 192, 196, 201, 202, 203, 217, 409, 166-A IPC, 1860 added lateron), registered at Police Station Uchana, District Jind.

The relevant facts are that there are two inter-related FIRs. Jagroop Singh was apprehended shifting 20 bags of Poppy Husk from truck bearing registration No.HR-45-C-9998 (hereinafter referred to as 'the truck') to a vehicle (chotta hathi) and FIR No. 388 dated 18.12.2020 to that effect was registered at Police Station Uchana.

Thereafter an information was received that staff of CIA Jind, had parked a truck loaded with onions with hidden contraband in the Police Station, without recording the information regarding contraband. Acting upon the information, the parked truck was checked and 20 bags of Poppy Husk were recovered and FIR No. 392 dated 24.12.2020 was registered.

The role attributed to petitioner-Anup is that he is a constable and a member of the raiding party which apprehended the truck. He is in custody since 13.3.2021.

Petitioner-Parveen Kumar ASI was also the member of the raiding party and he deposited the truck in the Malkhanna. He was in touch with the relatives of co-accused Amandeep and demanded Rs. 10 lakh for not adding the name of Amandeep in FIR.

Petitioner-Jasbir was the second Investigating Officer and it is alleged that he was also in touch with the family members of Amandeep and with co-accused Anup. Jaibir and Parveen Kumar are in custody since 28.10.2021.

Petitioner-Jagroop was the person who had to receive the Poppy husk being carried in the truck. He is in custody since 28.12.2020.

Petitioner-Amandeep Singh was the supplier of the recovered Poppy husk. He is in custody since 11.1.2021.

Learned counsel for petitioner-Amandeep Singh submits that he was not apprehended at the spot. He was named in the disclosure statement. No recovery was made. Trial was not progressing due to non-receipt of sanction to prosecute the police officials. Learned counsel for the petitioner-Jagroop submits that no recovery was made from him in this FIR.

Learned counsel for petitioners-Jaibir, Parveen Kumar and Anup submit that the petitioners have suffered incarceration for more than one year and eight months. Charges have been framed but the trial is not progressing. No further recovery is to be made and they are not involved in any other case. Learned counsel further submit that co-accused were granted regular bail by this Court. Learned counsel relied upon the order passed by the trial Court dated 14.11.2022 and the relevant portion of the same is reproduced as under:-

" Accused Jagroop, Mubarik Khan, Amandeep Singh, Rakesh,

Anoop, Parveen and Jaibir are languishing in jail since long and trial is being delayed due to non-filing of the above said sanction and complaint. On 30.9.2020, on the request of ld. PP for the State, one opportunity was granted to the state to file the above said sanction and complaint and copy of this order was ordered to be sent to SP Jind, District Magistrate, Jind and Director of Prosecution Haryana, for necessary action. But still today neither the above said sanction and complaint have been filed nor any response has been received from SP, Jind, District Magistrate, Jind and Director of Prosecution Haryana. In the interest of justice, reminder be issued to the, SP Jind, District Magistrate, Jind and Director of Prosecution Haryana to take the effective steps for filing the above said sanction and compliant on or before the next date of hearing."

Learned State counsel opposes the prayer and submits that the police officials in connivance with each other had withheld the Poppy Husk and not reported the same while depositing in Malkhana. They were in touch with the family members of co-accused and were demanding illegal gratification. She further submits that there is a version recorded of the co accused being in touch inter-se with the relatives of Amandeep and other co-accused. Accused-Jagroop is involved in twelve more FIRs.

Learned counsel for the petitioners on instructions submit that the petitioners volunteer to give their voice samples if so required.

It is clarified that the observations made hereinafter shall not be construed as an expression of opinion on the merits of the case.

Considering that co-accused were granted bail by this Court, petitioners are in custody for more than one year and nine months, no recovery was made from Jagroop and Amandeep and petitioners- Parveen, Jaibir and Anup are police officials, prima-facie there is no chance of their absconding, they have volunteered to give their voice samples, sanction to prosecute the police officials except Anup is yet to be received, in such circumstances no useful purpose would be served to deprive their personal liberty, bail is granted to petitioners on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

However, it is clarified that in case of misuse of bail or the petitioners trying to influence the witnesses, the State would be at liberty to avail remedies in accordance with law.

The petitions are allowed.

Since the main case has been decided, the pending application, if any is rendered infructuous.

Photocopy of this order be placed on the files of connected cases.'

4. Learned counsel for the State is not in a position to dispute the fact that the petitioner was granted bail in FIR No. 392 having similar allegations.
5. Without commenting on the merits of the case, considering that in the connected FIR having similar allegations the petitioner was granted bail, the custody period and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.
6. The petition is allowed.
7. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main case has been allowed, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

8th February, 2023
anuradha

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