

2023:PHHC:136568

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM M-44866 of 2023
Date of Decision: 19.10.2023

Ali Mohammad @ Noona

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Saifuddin Shams, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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 a regular bail in case FIR No.182 dated 26.04.2022 registered under Sections 18 and 20 (b) (ii) of NDPS Act, 1985 at Police Station Sadar Tauru, District Nuh.

2. The FIR in the present case was registered on the basis of the complaint filed by ASI Rajesh Kumar. As per the complainant, on 26.04.2022, a police team headed by him, was present for patrolling duty and a secret informer informed the police party that Samma, accused, who used to indulge in selling poppy husk illegally, would be coming in night with the contraband, which he had kept on his tube-well. If a raid was conducted immediately, he could be

apprehended. On finding the information to be genuine, a raid was conducted at about 03.00 a.m. and one person was found found lying on the mat, near the tube-well and was apprehended. He disclosed his name as Samma and a notice under Section 50 of the NDPS Act was issued to him and the search was conducted in the presence of the BDPO, which led to recovery of three packets of polythene. Overall, 40.870 Kgs of Ganja was recovered from him.

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR and was not arrested from the spot. He has been falsely involved in the present case on the basis of the disclosure statement suffered by the co-accused. He was arrested in the present case on 09.11.2022 and is in custody for the last more than 11 months. He further contends that the charge sheet has already been filed against him and his further custody will not serve any meaningful purpose.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground of seriousness of offence. However, she admits that only one witness has been examined out of total 20 witnesses.

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

6. It is not in dispute that the recovery of the contraband from the co-accused is commercial in nature, however, no recovery

was effected from the present petitioner. Apart from that, at this stage, the petitioner has been nominated as an accused on the basis of the disclosure statement suffered by the co-accused. He is in custody for the last more than 11 months and only one witness out of 20 witnesses, has been examined so far. Thus, his further incarceration will not serve any useful purpose.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

19.10.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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