

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47179-2023

Date of Decision:11.10.2023

Kharak Auji

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Yashpal Thakur, 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 01.03.2022 registered under Sections 399, 402 IPC and Sections 25, 54, 59 of Arms Act and Sections 22, 61, 85 of NDPS Act, at Police Station Mandi Gobindgarh, District Fatehgarh Sahib.

2. As per the case of the prosecution, a secret information was received by the police that Chakkar Sond, Thepe Singh, Hira Singh, Arjun Singh, Kharak Singh, Akash Singh and Shankar Bahadur, all residents of Nepal, used to enter the houses of various persons on the pretext of domestic work and security guard jobs. By administering sleeping pills, they used to make them unconscious and commit theft of their valuables. On that day also, they had assembled at one place and if the raid was conducted, they could be apprehended at the spot, while making preparation for committing the decoity with their weapons. On finding the information reliable, the raid was conducted

by the police and Chakkar Sond, Thepe Singh, Hira Singh, Arjun Singh and Shanker Bahadur were found at the spot. The search was conducted by the police and 960 capsules of Pyeevon Spas Plus and 03 strips of intoxicant tablets make Lorazepam Ativam 2 mg i.e. total 1050 tablets were recovered from the abovesaid five persons.

3. Learned counsel for the petitioner contends that even though the petitioner was named in the FIR, but he was not arrested from the spot, alongwith the other accused. Even the petitioner was named only on the basis of suspicion and was arrested later on, on 29.06.2022. He further contends that as per the story of the prosecution, only one iron knife was recovered from him and no contraband was recovered from his search. Learned counsel further contends that in the present case, the investigation is complete and the challan has already been presented against him. Thus, further custody of the petitioner will not serve any meaningful purpose.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the recovery of the contraband from his co-accused was commercial in nature and the petitioner had also actively participated in the commission of crime.

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

6. It is not in dispute that the petitioner was arrested in the present case on 29.06.2022 and is behind bars for the last more than 01 year and 3 months. Even no other case was ever registered against the present petitioner. Only one iron knife was allegedly recovered from him and his case cannot be equated to the remaining five accused, from whom the recovery of 1050

capsules had been made.

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.

11.10.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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