

2023:PHHC:129617

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM M-52582 of 2022
Date of Decision: 06.10.2023

Tahir

...Petitioner

Vs.

State of Haryana

...Respondent

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

Present : Mr. H.S. Deol, Advocate, for the petitioner.

Ms. Geeta Sharma, 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.138 dated 13.03.2022 registered under Sections 20, 29/61/85 of NDPS Act at Police Station Dabua, District Faridabad.

2. As per the case of the prosecution, the FIR in the present case was got registered by ASI Jagdish Chand. As per the complainant, on 13.03.2022, a police party headed by him was present at SGM Nagar, Faridabad and a secret informer informed the complainant that Rahul Khan son of Hadrish Khan was coming towards the Masjid No. 3 Faridabad on a three wheeler and was having Ganja with him. If a barricade was set up on the road, he could be apprehended with the Ganja and the three wheeler. On getting the

secret information, the barricade was set up and the three wheeler, which was seen coming from Pali-Dabua road was stopped by the police and the driver of the vehicle told his name and address to be Rahul Khan son of Hadrish Khan resident of village Dhulawat, Police Station Taoru, District Nuh (Mewat). On arrest of Rahul Khan, 10 kgs and 250 gms of Ganja in a plastic bag was recovered from the three wheeler, which was being driven by Rahul Khan.

3. Learned counsel for the petitioner contends that the petitioner was not named in the present case and there is no averment in the FIR, which even remotely connects the petitioner with the commission of the alleged crime. Learned counsel further contends that during the course of investigation, Rahul Khan allegedly suffered a disclosure statement and on the basis of the same, the petitioner was nominated as accused in the present case. He further contends that nothing was recovered from the petitioner even during the course of investigation and in the present case, final report of investigation has already been presented before the competent Court. Learned counsel further contends that petitioner was arrested in the present case on 14.05.2022 and is in custody for the last more than 01 year and 04 months. He further contends that the case of the prosecution is based on the testimonies of various official witnesses and the petitioner is not in a position to tamper with the prosecution evidence.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner is a habitual offender and is also involved in two more FIR's, i.e. FIR No. 110/2020 under Sections 20/61/85 of NDPS Act, Police Station City Sohana, Gurugram and FIR No. 95/2021 under Sections 20/25/29 of NDPS Act, Police Tilaknagar, West Delhi. However, she admitted that the petitioner is on bail in both the said cases.

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

6. It is not in dispute that the petitioner is in custody for the last more than 01 year and 04 months. During the course of arguments, learned State counsel has not placed on record any evidence to show that the petitioner is in a position to influence the witnesses cited by the prosecution or there are reasonable chances of absconding from the process of law. Apart from that, the pendency of other cases is no ground to deny the concession of bail to the petitioner, especially, when the petitioner has been able to make out a case in the facts and circumstances of the present case. Even otherwise, the petitioner stated is to be on bail in the rest of the cases as well.

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 subject to following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.

(vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

06.10.2023

amit rana

(N.S.SHEKHAWAT)**JUDGE**

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