

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-54531-2022 (O&M)

Date of Decision: 17.05.2023

AKRAM FAIZ

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Pratham Sethi, Advocate and
Mr. Pranshul Dhull, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this second petition, the petitioner seeks regular bail in case bearing FIR No.222 dated 28.07.2020, registered under Sections 27(b)(ii) and 28 of the Drugs and Cosmetics Act, 1940 and Section 22(c) of the NDPS Act, at Police Station Sector-56 Gurugram, the first one having been dismissed as withdrawn vide order dated 09.08.2022.

Learned counsel for the petitioner submits that the petitioner is a foreign nationalist of Iraq and was arrested from the house of co-accused, namely, Alhendi Aws @ Aws Raad Nealmah Al-Hendi; that the alleged recovery of 120 grams Clobazam and 1432 grams of Pheobarbital along with Rs.35.50 lakh was effected from the flat of the co-accused, which was taken on rent from Ms. Neelam, vide lease agreement dated

16.06.2020 (Annexure P-8) and that the petitioner has been in custody for the last more than two years and nine months. He further submits that the petitioner has filed an application for asylum, which is under consideration; that the petitioner was arrested from Flat No.D-5, 701, Aloha, Gurugram Group Housing, Sector-57, Village Tegra, Gurugram; that the petitioner was neither the owner nor the tenant of the said flat and that there is no other FIR pending against the petitioner, at least of a similar nature. Still further, it is submitted that the passport of the petitioner was lost and an FIR for the same was also lodged by him and that out of total 25 prosecution witnesses, only 7 have been examined, so far.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner. She, however, submits that the petitioner was arrested on the spot, when the recovery and amount of Rs.35.50 lakh was recovered from the flat of the co-accused; that the petitioner is a foreign nationalist and there are every likelihood of him fleeing the country, if granted regular bail. She further submits that the material witnesses are yet to be examined and thus, the petitioner does not deserve the concession of regular bail.

I have heard the learned counsel for the parties.

Though the recovery effected in the present case is commercial in nature, yet the fact remains that the petitioner has been in custody since 28.07.2020. As per the learned counsel for the petitioner, the petitioner was arrested from Flat No.D-5, 701, Aloha, Gurugram

Group Housing, Sector-57, Village Tegra, Gurugram. The flat, from which the recovery was effected, was taken on rent by the co-accused vide lease agreement dated 16.06.2020. The petitioner was neither the owner not the tenant of the said flat. There is no other case registered and/or pending against the petitioner. Most of the prosecution witnesses are yet to be examined. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

17.05.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>