

CRM-M-52142-2023

2023:PHHC:155907

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(225)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52142-2023

Date of Decision: 06.12.2023

AARIJ

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Pooja Jaglan, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.73 dated 10.03.2023 registered under Section 20 of the NDPS Act, 1985, (Section 29 of the NDPS Act and Sections 420, 467, 468, 471 IPC added later on) at Police Station Quilla, District Panipat.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that a person travelling in a car bearing No.HP-34A-8819 was carrying Ganja leaves and would be coming to Panipat to sell the same. A Nakabandi was set up and the car was stopped. The driver of the car disclosed his name as Ramesh. From the said vehicle 45 kgs.400 grams of Ganja leaves came to be recovered. The arrested accused Ramesh disclosed that Aarif (granted bail vide order dated 01.12.2023 passed in CRM-M-59471-2023) had supplied the same to him.

The accused Aarif who was in custody filed an application dated 10.07.2023 for interim bail for one month on medical grounds. During verification, the medical records allegedly issued by Dr. Deepak, CHC, Shamli, U.P. attached with the application for interim bail were found to be forged on the basis of enquiry conducted by the Investigating Officer in which the statement of Dr. Deepak had been recorded. The application for grant of interim bail was dismissed by the Court of A.S.J., Panipat vide order dated 17.07.2023. Thereafter, Sections 420, 467, 468, 471 IPC were added in the case.

Ashok Arora, Advocate appearing for the accused Aarif was joined in the investigation who disclosed that the forged medical documents had been given to him by the petitioner-Aarij and accordingly the statement under Section 161 Cr.P.C. of Ashok Arora, Advocate was recorded.

On 15.07.2023, Aarij was joined in the investigation and was arrested. He disclosed that he had got prepared the forged medical certificates through Dr. Sanjay Verma.

Thereafter, the report under Section 173 Cr.P.C. was presented against Aarif and Aarij under Sections 20, 29 of the NDPS Act and Sections 420, 467, 468, 471 IPC.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The allegations against him are baseless. Accused Aarif had already been granted the concession of bail by this Court vide order dated 01.12.2023 passed in CRM-M-59471-2023. So far as the petitioner was concerned, he could not be charged for the offence under the provisions of the NDPS Act. As the

petitioner was a first-time offender, in custody since 15.07.2023 and none of the 21 prosecution witnesses had been examined so far, he was entitled to the concession of bail moreso as he had clean antecedents with no other case registered against him.

4. On the other hand, the learned State counsel contends that the petitioner fabricated documents to show that Aarif was ailing in order to obtain interim bail for him. Therefore, the offence was well-established and the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 15.07.2023 and that none of the 21 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, Aarif has been granted the concession of bail. The petitioner is stated to be in custody since 15.07.2023 and none of the 21 prosecution witnesses have been examined so far. He is also a first-time offender. In this situation, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Aarij son of Bhalu is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

06.12.2023

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No