

2023:PHHC:140455

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

247

CRM M-53808 of 2023
Date of Decision: 02.11.2023

Vivek Kumar @ Vicky

...Petitioner

Vs.

State of Haryana

...Respondent

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

Present : Mr. Vishal Sharda, 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.223 dated 29.07.2022 registered under Sections 22-C/27A/29/61/85 of the NDPS Act (Section 201 IPC added later on) at Police Station Saha, District Ambala.

2. In the present case, the FIR was registered on the basis of a secret information and two accused namely Rinku and Ankit Kumar were arrested on 29.07.2022 and 800 injections of buprenorphine and 800 injections of pherniramine Maleate Injunction IP (Avil) were recovered from them. After their arrest, Rinku and Ankit had suffered their disclosure statements and on the basis of the same, Gaurav @ Kala was arrested on 31.07.2022. As per the prosecution, Rinku again

suffered disclosure statement in police custody and stated that Vivek Kumar @ Vicky, present petitioner had allegedly supplied the contraband to Rinku. On the basis of the disclosure statement suffered by Rinku, Vivek Kumar @ Vicky, the present petitioner was arrested on 04.10.2022. Subsequently Vivek @ Vicky also suffered a disclosure statement and he named Arjun @ Tuti in the said statement and Arjun @ Tuti was arrested by the Police on 07.10.2022.

3. Learned counsel for the petitioner contends that the petitioner was not named as an accused initially in the present case and has been arrayed as an accused on the basis of disclosure statement suffered by co-accused Rinku to the effect that the petitioner had allegedly supplied the contraband to him. He next contends that the petitioner was arrested in the present case on 04.10.2022 and is in custody for the last more than 01 year. He further contends that the similarly placed co-accused Rinku, Gaurav and Ankit have already been granted the concession of bail and the petitioner is also liable to be enlarged on bail on the ground of parity. Learned counsel further contends that in the present case the challan has already been presented by the police, but no witness has been examined so far. Thus, the trial Court may take considerable time in concluding the trial proceedings.

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 recovery of the contraband from the co-accused is commercial in nature and the petitioner is also part of the gang and there was exchange of funds between the petitioner and Arjun @ Tuti and Rinku.

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

6. It is not in dispute that the petitioner was not named as an accused in the present case initially and has been named as an accused in the disclosure statement suffered by Rinku. Apart from that, there was no recovery from the petitioner and the similarly placed co-accused Rinku, Ankit and Gaurav have already been granted the concession of bail. Apart from that, in the last more than 01 year, the prosecution has not been able to examine even a single witness and further incarceration of the petitioner will not serve any 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.

02.11.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No