

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9624-2023
Date of Decision:15.01.2024

Fayaz Ahmad Nadaf @ Sabha ...Petitioner

vs.

State of Punjab ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Mukesh Mehra, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 246 dated 11.12.2020 registered under Sections 21 (c), 29/61/85 of NDPS Act and Section 25/54/59 of Arms Act, Police Station Lohian, District Jalandhar.
2. As per story of the prosecution, a secret information was received by a police party headed by Jarnail Singh, Inspector, CIA and the secret informer informed that Parminder Singh @ Bhinda, who was confined in jail at Ferozepur, was indulging in smuggling of heroin at large scale from jail and was also selling it through his friends Rakesh Kumar @ Kesha son of Balwant Singh, resident of Khurla Pur P.S. Mehatpur and Jaswinder Singh son of Sukhdev Singh, resident of Fatehpur Bhangua, P.S. Lohian. Even Gursewak Singh son of Gurcharan Singh, resident of Behbalpur, Patiala had procured a consignment of heroin and illegal arms from Sri Nagar in car bearing

registration No.JK-01-E-2277. On that day, Rakesh Kumar @ Kesha and Jaswinder Singh were weighing and making further arrangements at the house of Jaswinder Singh situated in the fields and if raid was conducted, then huge quantity of heroin and illegal arms could be recovered from them. With these main allegations, the FIR in the instant case was registered by the police. Later on, 2 kgs of heroin was recovered from each of the accused, namely, Jaswinder Singh and Rakesh Kumar, who were working at the instance of Palwinder Singh @ Pinda, main accused. Even one pistol of 7.65 (.32 bore) and five live catridages were also recovered from the present petitioner.

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR. He further contends that neither the petitioner was present at the spot nor any recovery was effected from him. Learned counsel next contends that in the present case 02 Kg of heroin was recovered from each of the accused namely Rakesh Kumar and Jaswinder Singh, who were allegedly working at the instance of Palwinder Singh. He further contends that the petitioner has been named as an accused in the disclosure statement suffered by Rakesh Kumar @ Kesha. Now, Rakesh Kumar @ Kesha has already been granted the concession of bail by this Court in CRM-M-53626-2022. As per learned counsel, the petitioner was arrested on 01.07.2020 and is continuing in custody since then. 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 serious allegations have been levelled against the present petitioner, however, no recovery was effected from the present petitioner.

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

6. The name of the petitioner has surfaced during the disclosure statement suffered by Rakesh Kumar @ Kesha, who has already been granted the concession of bail by this Court vide order dated 31.07.2023 in CRM-M-53626-2022 and no recovery was effected from the present petitioner.

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.

(N.S.SHEKHAWAT)
JUDGE

15.01.2024
hitesh

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