

2024:PHHC:142669



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-12598 of 2024
Date of Decision: 29.10.2024

Manoj Kumar		...Petitioner
	Versus	
State of Haryana		... Respondent

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

Present : Mr. Dilpreet Singh Gandhi, 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.207 dated 27.07.2023 registered under Sections 20(b)(ii)(c), 61, 85 of NDPS Act, 1985 (Sections 120-B, 201 and 420 of the IPC and Sections 29 of the NDPS Act added later on) at Police Station Siwani, District Bhiwani.

2. The FIR in the present case was registered on the basis of the statement made by SI Virender Singh. As per him, on 27.07.2023, the complainant alongwith other police officials were present in connection with patrolling duty and a secret information was received

that Rajiv and Rajesh, co-accused were involved in selling of narcotic substance. After complying with the mandatory provisions, Rajiv and Rajesh were arrested, while driving an Innova vehicle and from the search of the vehicle, 1 Kilogram 485 gram Charas was recovered by the police. The said discovery of *Charas* finally led to the registration of the present case. During investigation, Priyanka wife of Rajiv, co-accused moved an application to the police alleging that Manoj Kumar, Advocate, petitioner and Raghubir wanted to grab the sale proceeds of their plot and due to this, they had falsely involved Rajesh and Rajiv in a false criminal case. The said representation was investigated and ultimately it was found that Manoj Kumar, petitioner and Raghubir had lodged a criminal conspiracy and had falsely got involved Rajiv and Rajesh in this case to grab the sale proceeds of a plot to the tune of Rs. 9.50 lacs.

3. Learned counsel for the petitioner contends that the petitioner was not initially named in the FIR nor had any concern with allegations levelled in this case. The *Charas* was recovered from the possession of Rajesh and Rajiv, both the co-accused and the petitioner has been dragged in the present case at the behest of Priyanka, wife of Rajiv. Even, the petitioner has been arrested after several months of registration of the FIR, without any evidence and during the process of investigation, the disclosure statement of the petitioner was recorded, which is being stated to be the only evidence against him.

He further contends that even the petitioner had no concern with the sale proceeds of the plot in question and the motive alleged against the petitioner was very weak. Apart from that, the petitioner was arrested in the present case on 29.11.2023 and after completion of investigation, the challan has already been presented against him.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that the petitioner had actively participated in the crime and got the contraband planted on Rajesh and Rajiv, co-accused. Learned State counsel further submits that *Charas* was supplied to Raghubir, co-accused at the instance of Mohit Rana @ Mannu. Thus, the petition deserves to be dismissed by this Court.

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

6. The principles, which the Court must bear in mind, while allowing or declining the bail have been laid down by the Hon'ble Supreme Court and this Court in catena of judgments. While granting the bail, the Court has to keep in mind the nature of accusation, the nature of evidence in respect thereof, character, behavior and means of the accused, the circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, fear of fleeing from the process of justice etc., Further, an

undertrial prisoner cannot be detained in jail for a longer duration also.

7. In the present case, the contraband was allegedly recovered from Rajiv and Rajesh, co-accused. After about 3/4 months, it was found that the petitioner and Raghubir, co-accused were also involved in the present case. However, the case of Raghubir was altogether on different footing. It has been alleged that the petitioner had only conspired with the co-accused and 1 kilogram and 485 grams of *Charas* was allegedly planted on Rajiv and Rajesh. Whether the petitioner had conspired with co-accused or not, is a subject matter of trial, which is stated to be pending before the trial Court. The petitioner was arrested in the present case on 29.11.2023 and has suffered sufficient incarceration in the present case. Even otherwise, no useful purpose will be served by keeping the petitioner behind the bars.

8. 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.

29.10.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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