

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.209

Case No. : CRM-M-30722-2024

Date of Decision : July 05, 2024

Chirag

.... Petitioner

vs.

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Sourabh Sheoran, Advocate
for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana
for the respondent-State.

* * *

GURBIR SINGH, J. :

1. Prayer in the present petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner, in case FIR No.69 dated 26.03.2024, under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – NDPS Act) (Sections 27-A & 58 of the NDPS Act and Section 120 & 195 IPC were added subsequently), registered at Police Station City Mahendergarh, District Mahendergarh.
2. Brief facts of the case, as per prosecution version, are that on 26.03.2024, ASI Sanjeet along with some other officials, was present at Satnali Turn, Mahendergarh in connection with patrolling duty, where a secret informer met him and informed that Chirag son of Virender was indulging in selling narcotic substances. On that day, he was having smack in his motorcycle bearing registration No.HR-34G-8818 and was present

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opposite the Court Complex. If raid was conducted, then he could be apprehended. After preparing notice under Section 42 of the NDPS Act, raid was conducted at the disclosed place. Chirag was present there. On search of his motorcycle in the presence of Gazetted Officer, a plastic pouch containing smack was recovered from his motorcycle. On weighing, the same was found to be of 08 grams 63 milligrams. After completing necessary formalities, FIR No.69 dated 26.03.2024 was got registered. Further investigation was conducted by SI Govind, who reached at the spot. He interrogated Chirag and found the matter suspicious. DSP Mohammad Jamal was called at the spot and Chirag was interrogated in presence of the witnesses, upon which DSP gave the direction not to arrest Chirag as the matter was suspicious. During further interrogation, the above said Chirag disclosed that a fight took place on 24.02.2024 between his brother Jatin and himself (Chhahat @ Chirag), Deepak @ Gail, Manish, Sandeep, Dheeraj @ Thikdi and six other persons, who had inflicted injuries to him and his brother Jatin, wherein his hand was broken, upon which, his brother Jatin got registered a case i.e. FIR No.47 dated 28.02.2024, under Sections 148, 149, 323, 455 and 506 IPC, at Police Station City Mahendergarh. He further told that the above named accused persons were making pressure upon him and his family by threatening them to implicate them in false case if compromise is not made by them. He further stated that he did not know who kept the smack in his motorcycle.

5. On 27.03.2024, secret informer namely Tarun Kumar was called and joined in the investigation. During interrogation, he suffered disclosure



statement, wherein he admitted to have been involved in the present crime and disclosed that on 25.03.2024, Sandeep and Deepak @ Gail, Chirag @ Chahat, Prabal and Manish made a plan to keep smack underneath the seat of Chirag's motorcycle and he himself was asked to give false information to the police. As agreed, he gave false information to the police and the police planned to nab Chirag red-handed. So, on this disclosure, Tarun was arrested in this case. On 27.03.2024, Sandeep and Deepak @ Gail were joined in the investigation and were arrested. Further, on the disclosure statement of Sandeep, Suraj and Chirag @ Chhahat were joined in investigation and were arrested in this case on 29.03.2024. Petitioner Suraj suffered his disclosure statement, in pursuance of which, Rs.2,000/- got recovered, which was received by him by selling smack.

6. Learned counsel for the petitioner has submitted that the name of the petitioner was surfaced in this case on the basis of disclosure statement made by co-accused and it is settled position of law that the law cannot be brought into motion merely on the basis of disclosure statement because the said statement suffered by co-accused in police custody is not admissible in evidence, unless such statement lead to discovery of some fact. It is further submitted that no recovery has been effected from the petitioner and there is no direct evidence against him and as far as disclosure statements are concerned, the same would be a subject matter of consideration during trial. The petitioner is behind bars since 29.03.2024. Challan has been presented in the matter and prosecution has cited as many as 23 witnesses. So, the trial of the case would take a long time to conclude. It has, therefore, been prayed



that the present petitioner be released on bail.

7. Learned State counsel, on the other hand, while opposing the averments of learned counsel for the petitioner, has submitted that the present petition is a habitual offender and is involved in two other cases and such an accused may abscond if released on bail. So, the petitioner does not deserve any relief from this Court.

8. I have heard learned counsel for the petitioner as well as learned State counsel appearing on behalf of the State of Haryana.

9. Petitioner in this case was arrested on 29.03.2024. The present petitioner is named ***Chirag son of Dharambir @ Tinku***, resident of Mohalla Sainipura, Mahendergarh whereas recovery was effected from ***Chirag son of Virender***, resident of Dhani Mohalla, Mahendergarh. They are two different persons with different identities and place of residence. However, the recovery effected is also of non-commercial quantity. No recovery of any contraband is effected from the present petitioner. As informed, the case is at the initial stage. Though challan has been presented but completion of trial will take a long time as there is a long list of witnesses.

10. Keeping in view the facts and circumstances of the case, this Court is of the view that no useful purpose would be served by keeping the petitioner behind bars for a long period. Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on furnishing personal bonds in the sum of Rs.50,000/-, with one surety of the like amount, subject to the satisfaction of learned Trial Court/Duty Magistrate concerned.

11. Nothing contained herein above shall be construed as an expression of opinion on the merits of the case.
12. Pending applications, if any, shall stand disposed of along with the present petition.

July 05, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.