

**CRM-M-33788-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.289****Case No. : CRM-M-33788-2024****Date of Decision : August 21, 2024**

Deepak @ Gail

.... Petitioner

vs.

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Himanshu Joshi, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

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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 21/27-A/58(2) of the Narcotic Drugs and Psychotropic Substances Act No.61 of 1985 (for short – NDPS Act) and Sections 195/120-B IPC, registered at Police Station City Mahendergarh, District Mahendergarh.

2. The prosecution version, in brief, is 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 opposite the Court

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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, the aforesaid 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 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 to implicate them in false case if compromise is not effected by them. He further stated that he did not know who kept the smack in his motorcycle.

3. 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 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. Suraj and Chirag @ Chahat were joined in investigation and were arrested in this case on 29.03.2024, on the basis of disclosure statement of Sandeep. Petitioner Suraj suffered his disclosure statement, in pursuance of which, Rs.2,000/- was got recovered, which was received by him by selling smack.

4. Learned counsel for the petitioner has submitted that the name of the petitioner surfaced in this case on the basis of disclosure statement made by co-accused and it is settled position of law that the 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. Learned counsel has further contended that recovery in this case was not of commercial quantity. Moreover, co-accused Chirag, from whom the recovery was effected, was not even arrested by the police, considering the matter suspicious. Other co-accused namely Tarun Kumar, Sandeep Singh

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and Suraj have also been granted regular bail by this Court. So, the case of the petitioner be also considered at par and he be also released on bail.

5. On the other hand, learned State counsel, while opposing the averments of learned counsel for the petitioner, has submitted that the present petition is a habitual offender and another case under Sections 148, 149, 323, 324, 325, 506 IPC is also pending against him. He may even abscond, if released on bail. So, the petitioner does not deserve any relief from this Court.

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

7. The petitioner is behind bars since 27.03.2024. Recovery in this case was effected from Chirag, who was not even arrested by the police and was let off, considering the matter suspicious. No recovery of any contraband has been effected from the present petitioner. Recovery effected in this case is also not of commercial quantity. Co-accused Tarun Kumar, Sandeep Singh, Chirag and Suraj have already been granted regular bail by this Court. Challan has been presented in the matter. The trial of the case would take a long time to conclude. Though one case under Sections 148, 149, 323, 324, 325, 506 IPC is pending against the petitioner, but that is not a ground to deny concession of bail to the petitioner.

8. 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.

9. Nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

10. Pending applications, if any, shall stand disposed of along with the present petition.

August 21, 2024

monika

(GURBIR SINGH)

JUDGE

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