

Sanjay Kumar @ Shankar Giri Vs. State of Haryana

HRPK-01-003820-2022



Presented on : 07.10.2022
Registered on : 07.10.2022
Date of order : 14.10.2022
Duration : 0 year, 0 month, 07 days

IN THE COURT OF
Additional Sessions Judge
at Panchkula.
(Presided Over by Sunil Kumar-II)
UID No.HR-0233

BA/1296/2022

Sanjay Kumar @ Shankar Giri, aged 43 years, son of Sh. Raghubir Singh,
resident of Rishikesh, Uttrakhand.

(Presently confined in Central Jail, Ambala.)

.....Applicant/Accused.

VERSUS

State of Haryana

.....Respondent.

FIR No.37 dated 19.05.2021
Under Sections : 20/29 of NDPS Act and 120-B IPC
Police Station : Mansa Devi, Panchkula.

BAIL APPLICATION UNDER SECTION-439 OF CR.P.C.

Present: Sh. Suresh Pal Sharma, Advocate for the applicant/accused.
Sh. Rajbir Singh, Ld. Public Prosecutor.

ORDER:

The instant application for bail under Section-439 of Cr.P.C. has
been filed by the applicant/accused named above with the averments that he
has been implicated falsely in the instant FIR by the Police. The

(Sunil Kumar-II)
ASJ, PKL 14.10.2022

applicant/accused is a Saint by profession and he has not indulged in any illegal activity. The applicant/accused is an innocent person and no offence has been committed by him. The applicant/accused is in custody since 06.09.2022. No recovery is to be effected from the applicant/accused and no useful purpose would be served by keeping the applicant/accused behind the bars. The trial would take long time and no useful purpose would be served by keeping the applicant/accused in further judicial custody. The alleged recovery of 750 gms of Bhukki does not fall under commercial quantity. There is no bar under Section-37 of the NDPS Act for grant of bail. The applicant/accused has been named by co-accused persons in their disclosure statements and he has been implicated on the basis of false disclosure statements. Co-accused persons namely Tarun Hooda, Saroj Hooda and Raj Singh have already been granted the concession of bail by the Court. The applicant/accused undertakes not to temper with the evidence or to put any kind of pressure upon the witnesses of the prosecution if he is released on bail. No offence is made out against the applicant/accused. The applicant/accused would remain available for interrogation by the Police as and when required. It is on the above grounds that the applicant/accused has prayed for regular bail under Section-439 of Cr.P.C.

2. On notice, reply to the bail application through the learned Public Prosecutor has been filed. In the reply, the contents of the FIR are reiterated. It is stated that on 19.05.2021, Pick Up No.HR-68-3816 was

checked and an old person named Jorawar Singh was found sitting in the same. From the said pick up vehicle charas weighing 720 gms was recovered and the same was taken into police custody. Said Jorawar Singh disclosed that he had no knowledge about the charas recovered from his vehicle. From the mobile of Jorawar Singh, the call details of his family members were obtained. It was on 25.05.2021 that Tarun Hooda and Saroj Hooda were duly arrested as the crime was committed in pursuance of conspiracy hatched by Tarun Hooda, Saroj Hooda, applicant/accused Sanjay Kumar @ Shankar Giri and Ankush @ Sumit @ Chuppa. Section 120-B of IPC was added to the instant FIR. On the basis of confessional statements of Tarun Hooda and Saroj Hooda, the charas supplier Raj Singh was duly arrested on 27.05.2021. Said Ankush @ Sumit was found to be a juvenile. It was on 02.09.2022 that production warrants against applicant/accused were got issued. He was produced before the Court on 05.09.2022 and duly arrested. If the applicant/accused is granted bail, he may threaten the witnesses and he would not appear before the Court. Accused Saroj Hooda, Tarun Hooda and Raj Singh have been granted bail vide orders dated 28.06.2021 and 30.06.2021 respectively. It is the first application for bail filed by the applicant/accused. It is stated in the reply that FIR No.48 dated 26.05.2014 under Sections-148, 149, 323, 452, 302, 120-B IPC and Section 25 of the Arms Act, 1959, PS Mansa Devi, Panchkula and FIR No.119 dated 26.04.2003 under Sections-379, 411, 420, 473 and 482 IPC, PS Manimajra,

Chandigarh are also registered against the applicant/accused. It is on the above grounds that the application for bail under Section- 439 of Cr.P.C. is sought to be dismissed.

3. I have gone through the contents of the bail application as well as the reply filed to the same thoroughly and carefully. Arguments led by learned counsel for the applicant/accused as well as learned Public Prosecutor have been heard at length by me.

4. The charas weighing 720 gms is alleged to have been recovered from pick up HR-68-3816 and it was only Jorawar Singh who was sitting in the said pick up at that time though he may not have the knowledge about the hidden narcotic substance at that time. The quantity of charas recovered does not fall in the commercial quantity because as per the notification dated 19.10.2001, the commercial quantity is 1 Kg. Nothing has been recovered from the applicant/accused in the course of investigation. He has been arrested with the aid of Section 120-B of IPC and his name has figured in the disclosure statements of co-accused persons Tarun Hooda and Saroj Hooda suffered whilst in custody. Said Tarun Hooda and Saroj Hooda have since been granted bail. The applicant/accused is in custody since 05.09.2022. The report under Section 173 Cr.P.C. has not been received till date. It means that the investigation and thereafter the trial would take sufficient time to conclude. In the above circumstances, it would not be justiciable to keep the applicant/accused behind the bars any longer.

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7. For the reasons recorded above, the application for bail under Section-439 of Cr.P.C is allowed and the applicant/accused Sanjay Kumar @ Shankar Giri is admitted to bail subject to furnishing personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of this Court. Requisite personal bond and surety bond are not furnished today. Let the papers be tagged with the remand papers pending before this Court.

Announced in open court.
Dated : 14.10.2022

(Sunil Kumar-II),
Addl. Sessions Judge,
Panchkula. UID : HR0233

Note:-Each of the -5-pages of this order has been checked and signed by me.

(Rajwinder)

(Sunil Kumar-II),
Addl. Sessions Judge,
Panchkula. UID : HR0233

(Sunil Kumar-II)
ASJ, PKL 14.10.2022

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CNR No: HRPK-01-00-3820-2022

BA/1296/2022

Present: Sh. Suresh Pal Sharma, Advocate for the applicant/accused.
Sh. Rajbir Singh, Ld. Public Prosecutor.

Arguments on the application for bail under Section-439 Cr.P.C.
heard. Order pronounced. Vide my separate detailed order of even date, the
application for bail under Section-439 Cr.P.C. filed by the applicant/accused
is **allowed**. Requisite bonds are not furnished today. Let the papers be
tagged with the remand papers pending before this Court.

Announced in open court.
Dated : 14.10.2022

(Rajwinder)

(Sunil Kumar-II),
Addl. Sessions Judge,
Panchkula. UID : HR0233

(Sunil Kumar-II)
ASJ, PKL 14.10.2022