

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-20156 of 2020
Date of Decision:-27.10.2020**

Jagseer Singh alias Jaggi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Jasdeep Singh, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Additional A.G., Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner pending trial in case FIR No.0068 dated 12.06.2020, under Section 22/29 of the NDPS Act, registered at Police Station City Rampura, District Bathinda.

On 12.6.2020 an FIR was registered when the police party was on private vehicle for checking and patrolling of suspected persons raised blockade just 100 meter ahead at village Rampura to Bhunder road then from the side of village Bhunder one motor-cycle bearing registration No.PB-03BA-8496 marka Hero HF-Delux was seen coming. One man was riding the same and one transparent plastic bag was hanging on the handle

of the said motor-cycle. When he was signaled to stop by ASI Karam Singh, he got perplexed but due to high speed he fell down and two strips of intoxicant tablets scattered on the road. Thereafter the said person tried to escape from the spot but was apprehended by the police. From the said accused, namely, Sukhpal Singh, 1000 tablets of Clovidol 100-SR were recovered. Thereafter on the basis of his disclosure statement the name of the petitioner was nominated and he was arrested by the police.

Learned counsel for the petitioner has submitted that it is a case where the petitioner has been illegally roped up in the present case merely on the basis of disclosure statement of an accused, who was apprehended by the police. He has submitted that the petitioner is totally innocent and he is not involved in such kind of activity at all. To support his argument, learned counsel for the petitioner stated that the petitioner has never been involved in any kind of case and no FIR at all has ever been registered in which any involvement of the petitioner has been shown. He has further submitted that it was only because of the said wrongful disclosure statement made by Sukhpal Singh before the police, the petitioner has been arrested without verifying the antecedents. He has further submitted that even otherwise also the evidentiary value of the disclosure statement cannot support any kind of conviction. He has further submitted that he is in custody for the last 04 months and 15 days as of today and in the present case challan has been presented on 15.10.2020 and the investigation in the present case is already completed and therefore prayed for grant of regular bail to the petitioner. He has further submitted that no recovery has been effected from the petitioner.

Learned State counsel has submitted that it is not in dispute that the petitioner is not involved in any other case. He has further not disputed that from the petitioner no recovery has been effected. The custody period is also not disputed by him. Learned State counsel has, however, opposed the bail on the ground that recovery although made from the another person involves commercial quantity.

I have heard learned counsel for the parties through video conferencing.

Section 37 of the NDPS Act provides a bar for grant of bail subject to certain exceptions which have been provided in Section 37 of the NDPS Act itself. The said exceptions provide that when a Public Prosecutor has been given an opportunity to oppose bail application and where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail then in that situation, the Court can always consider the grant of bail to the accused.

In the facts and circumstances of the present case, the petitioner was arrested merely on the basis of disclosure statement made to the police by the main accused, who was apprehended on the spot. The petitioner does not have any kind of bad antecedents as admittedly he was not involved in any other case till date. Apart from this even no recovery has been made from him. Therefore, considering the facts and circumstances of the present case, this Court is of the view that it is a fit case where a departure can be made from the bar contained in Section 37 of the Act, as it appears that there are reasonable grounds for believing that he may not be

guilty for the said offence particularly in view of the facts which have been discussed above.

Therefore, considering the totality of circumstances of the present case, the present bail application is allowed. The petitioner shall be released on regular bail on his furnishing bail bond/surety to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

October 27, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No