

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11023-2021

Date of Decision: 18.03.2021.

Dharmender Singh

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Simranjeet Singh, Advocate for the petitioner.

Mr. Naveen Sheroan, DAG, Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 439 Cr. P. C. is for grant of regular bail in case FIR No.102 dated 21.07.2020 registered under Sections 22(c) of NDPS Act (Section 27-A/61/85 of NDPS Act added later on) at Police Station Jakhal.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the aforementioned case solely on the basis of disclosure statement of co-accused-Lakhbir @ Lakha and his wife-Rani, who were apprehended on 21.07.2020 and 1000 tablets of *Tramadol* Hydrochloride weighing total 422 grams were recovered from their possession and who disclosed that they had purchased the said psychotropic substance from the petitioner. Learned Counsel further contends that apart from the aforementioned disclosure statement, there is no other material to connect the petitioner with the commission of the offence. The petitioner has clean

record and he is not involved in any other criminal case beside he has been in custody since 22.07.2020, Investigation is complete, no recovery has been made from the petitioner, challan has been filed but charges are yet to be framed, trial will take considerable time to conclude and no purpose would be served by keeping the petitioner in custody, especially in view of the circumstances prevailing on account of Corona Virus Pandemic. Learned counsel has also referred to the decision of Hon'ble the Supreme Court in "***HaricharanKurmi Vs. State of Bihar***" in **Criminal Appeals No.208 and 209 of 1963** decided on 03.02.1964, to contend that mere disclosure statement without there being any other corroborative material, cannot be read against the petitioner. Relevant extract of the same is reproduced as under:-

"As we have already indicated, this question has been considered on several occasions by judicial decisions and it has been consistently held that a confession cannot be treated as evidence which is substantive evidence against a co-accused person. in dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right.

4. Learned State counsel on instructions from ASI Ajmer Singh, confirms that the petitioner has been implicated in the instant case solely on the basis of disclosure statement of the co-accused from whom 1000 tablets of *Tramadol*

Hydrochloride were recovered on 21.07.2020 and that apart from the disclosure statement, there is no other material available to connect the petitioner with the

CRM-M-11023-2021

-3-

commission of the offence, besides there is no other criminal case against the petitioner, investigation is complete, challan has been filed but charges are yet to be framed.

[4] Accordingly, taking into account all aspects of the matter as also the decision of Hon'ble the Supreme Court as referred to, the instant petition for grant of regular bail is allowed. Petitioner-Dharmender Singh is ordered to be released on regular bail during the pendency of the trial on his furnishing bail bond and surety bond to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, provided he is not required in any other case. The petitioner shall comply with the conditions contained in Section 437(3) Cr.P.C. However, it is made clear that nothing stated hereinabove would be taken to be an expression of opinion qua the merits of the case. It is also made clear that if the petitioner is involved in any other case while on bail in the instant case, the prosecution would be at liberty to move an application for cancellation of bail granted to the petitioner in the instant case.

(B.S. Walia)
Judge

18.03.2021.
Shivani/Sonia

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