

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.11609 of 2021 (O&M)

Date of Decision:08.11.2021

Amrik Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. P.S. Sekhon, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

JAISHREE THAKUR, J. (ORAL)

This is a petition that has been filed for grant of regular bail to the petitioner, who has been nominated as an accused in FIR No.68 dated 30.10.2019 registered under Sections 21, 22, 25 and 29 NDPS Act at Police Station Thuliliwal, District Barnala.

Learned counsel appearing on behalf of the petitioner herein would contend that on the basis of a secret information received by Inspector Baljit Singh regarding transportation of contraband, an FIR came to be registered against co-accused Sukhwinder Singh Sukh, Ravi Singh, Jinder Singh and Lakhwinder Singh @ Toti. The said accused were apprehended while travelling in an ERTIGA car bearing registration No.PB-11CC-0285 with 1,65,000 intoxicant tablets of CLOVIDOL-100 SR besides 1,44,000 alprazole tablets containing alprazolam salt, total 3,09,000. It is submitted that in fact, no recoveries were effected from the petitioner and he has been nominated as an accused merely on the basis of a disclosure

statement of one Lakhwinder Singh and another to whom the petitioner had given his car on a contract agreement, which had come into effect from 26.09.2019 much prior in time to the incident having taken place. It is argued that the co-accused namely Sony Singh @ Soni Kana @ Somy has already been allowed regular bail under the same FIR in CRM-M No.18706 of 2021 wherein the Coordinate Bench while placing reliance upon the judgment rendered by the Hon'ble Supreme Court in ***Tofan Singh Vs. State of Tamil Nadu 2021 (1) RCR (Crl.) 1*** has held that a confessional statement made to a police officer cannot be taken into account to convict accused under the NDPS Act.

Learned counsel appearing for the petitioner would contend that the said judgment would be applicable to the petitioner because he was nominated as an accused under the said FIR and came to arrested only account of the disclosure statement of one Lakhwinder Singh and another to whom he had given his car to ply.

Learned counsel appearing on behalf of the respondent-State opposes grant of regular bail to the petitioner by contending that huge quantities of contraband have been recovered from the accused persons in the said FIR, however, she is not in a position to dispute the fact that it is only on the basis of disclosure statement of one Lakhwinder and another that the petitioner herein came to be nominated as an accused.

I have heard learned counsel for the parties and have perused the paper book. This Court dealt with the similar issue in the judgment passed in ***Rakesh Kumar Singla Vs. Union of India*** in CRM-M No.23220 of 2020 decided on 14.01.2021. Admittedly, the petitioner herein has not been

arrested from the site of recovery nor any recovery has been effected from him. He has been nominated only on the basis of disclosure statement made by the co-accused, therefore, this Court is *prima facie* of the opinion that the ratio as laid down in the reference order in Tofan Singh's case would come to the aid of the petitioner to allow him the benefit of regular bail. Consequently, the instant petition is allowed and the petitioner is directed to be released on regular bail on his execution of personal/surety bonds of Rs.1 lakh each to the satisfaction of concerned trial court/Duty Magistrate. However, any observations made hereinbefore shall not be construed as an expression on merits of the case and is limited only for the purpose of decision of the instant bail petition.

November 08, 2021
Pankaj*

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No