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

**CRM-M-17375-2021
Date of decision: 22.11.2021**

KULWANT SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0226 dated 19.10.2020, registered under Section 22(c) and 29 added later on vide DDR No.20 dated 11.11.2020 of the NDPS Act, 1985 at Police Station Sadar Patti, District Tarn Taran, Punjab.

Learned counsel for the petitioner submits that the petitioner is in judicial custody for the last about 11 months and 10 days and as per the allegations in the FIR, the police party headed by SI Charanjit Singh, a person was seen coming on foot holding one polythene bag in his right hand and on seeing the police party, he became perplexed and tried to fled away

by throwing the polythene bag near the bushes on the side of the road, however, he was apprehended by the police party on suspicion and disclosed his name as Lovepreet Singh @ Kaka. Thereafter, by following a procedure, the polythene was checked and it contained 3510 intoxicant tablets.

Learned counsel for the petitioner further submits that after the recovery was effected, an information was sent to the police station for registration of the FIR and, therefore, it will be a matter of trial whether provisions of Section 42 of the NDPS Act were properly followed or not.

Learned counsel for the petitioner further submits that the petitioner was in fact nominated on the disclosure of co-accused Lovepreet Singh @ Kaka in the present case and except the disclosure of the co-accused, nothing has come against the petitioner.

Learned State counsel however submits that the petitioner is involved in one more FIR under the NDPS Act, though he is on bail as per the custody certificate dated 24.08.2021.

Learned State counsel further submits that charges were framed on 15.04.2021, however, out of 13 prosecution witnesses, no prosecution witness has been examined as the trial was delayed due to the COVID-19 situation in the country.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case and also in view of the judgment of the Hon'ble Supreme Court in ***“Tofan Singh versus State of Tamil Nadu”, 2013(4) RCR (Criminal) 631***, it will be a debatable issue whether the disclosure statement made by the co-accused will be admissible against the petitioner or not; the instant petition is

allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

22.11.2021
Chetan Thakur

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>