

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

CRM-M-22827-2021

Date of decision:- 30.09.2021

Inder Pal @ Inderjeet Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. D.N.Ganeriwala, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.07 dated 13.01.2020 under Section 22-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”), registered at Police Station Baragudha, District Sirsa, Annexure P-1.

As per the version of the prosecution, FIR, Annexure P-1, has been registered when a person was apprehended on suspicion and was found to be carrying 540 tablets of intoxicant substance in a polythene bag. On an enquiry, he disclosed his name as Tara Singh, son of Hari Singh.

Counsel for the petitioner contends that no recovery has been effected from the petitioner even though he has been named in the FIR on the basis of the disclosure statement of the co-accused, Tara Singh, who has been released on regular bail by this Court by virtue of order dated 15.12.2020, Annexure P-2, passed in CRM-M-13255-2020. He urges that confessional statement made by the co-accused in police custody would be hit by Section 25 of the Evidence Act, 1872. He has placed reliance upon the judgment of the Hon'ble Supreme Court in ***Tofan Singh versus State of Tamil Nadu (2013) 16 SCC 32***. He submits that the petitioner is involved in some other cases, the details of which have been given in para 15 of the petition, and are reproduced here-under:-

Sr. No.	Cases as per list of Police Station	Remarks
1.	FIR No.115 dated 29.07.2020 P.S.Odhan	No recovery Nominated on disclosure statement
2.	FIR No.74 dated 04.05.2020 P.S.Odhan	No recovery Nominated on disclosure statement On Bail vide order dated 28.05.2021, Annexure P-6.
3.	FIR No.86 dated 25.07.2016 P.S.Odhan	Acquitted by ASJ, Sirsa vide order dated 30.07.2019
4.	FIR No.101 dated 15.09.2019 P.S.Odhan	No recovery Nominated on disclosure statement On Anticipatory Bail
5.	FIR No.80 dated 15.08.2011 P.S.Odhan U/S 341/382/307/364 of IPC	Acquitted vide order dated 07.04.2014
6.	FIR No.43 dated 01.03.2017 P.S.Civil Lines, Sirsa, U/S 186/201/336/353/379/34 of IPC 15/2B IMC Act	Pending in trial Court

Counsel asserts that the petitioner, who is in custody since 06.01.2021, is no longer required for custodial interrogation as the challan stands presented and he deserves to be released on bail.

Per contra, learned State counsel, upon instructions from, ASI, Shamsher Singh, has opposed the petition and submitted that as the total recovery effected from the co-accused comes to 465 grams of Tramadol Hydrochloride, the rigor of Section 37 of NDPS Act is attracted. He submits that the vehicle on which the petitioner allegedly supplied the contraband to the apprehended accused, has been recovered from him. Upon further instructions, he submits that the challan against the petitioner has been presented on 02.07.2021, though the charge is yet to be framed. He opposes the petition by submitting that the criminal past of the petitioner does not entitle his release on bail.

I have considered the respective submissions of counsel for the parties.

Petitioner has been arraigned as an accused on the basis of a confessional statement, the legality and veracity of which is yet to be tested. As the petitioner is in custody for the last more than eight months, challan has been presented, but the trial is yet to start, therefore, this Court is *prima facie* of the view that he deserves to be enlarged on bail.

Without examining the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Inder Pal @ Inderjeet Singh, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

While being released on bail, the petitioner shall furnish an undertaking to the effect that he shall not indulge in the sale, purchase or trade of prohibited substance and in case, he violates the undertaking, it shall be open to the prosecution to seek cancellation of bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

30.09.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No