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

**CRM-M No.23888 of 2021(O&M)
Date of Decision: 01.07.2021**

Sanjeev Kumar

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

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

Mr. Sandeep Kumar, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.33 dated 31.03.2021 registered under Section 22 of the NDPS Act (Section 29 of the NDPS Act added later on) at Police Station Moonak, District Sangrur.

Petitioner has been nominated on the basis of disclosure statement of Sukhdev Singh from whom 8800 loose tablets and 500 loose intoxicant capsules have been recovered on 31.03.2021 and during interrogation, Sukhdev Singh has

disclosed that he has brought the said intoxicant tablets from the petitioner for ongoing supply to the customers. Petitioner has been nominated with the aid of Section 29 of the NDPS Act.

Learned counsel for the petitioner submits that the FIR in question has been registered on the basis of secret information. He also refers to the order dated 20.04.2021 passed by the Judge, Special Court, Sangrur. In the present FIR, anticipatory bail of Dinesh has been rejected on the ground that Sukhdev Singh has disclosed that he has brought 8800 intoxicant tablets and capsules from Dinesh. Dinesh has also been implicated with the aid of Section 29 of the NDPS Act. In this manner, the conflicting stand has been taken by Sukhdev Singh with regard to the person from whom he had brought the contraband in question. Learned counsel further relies upon **Criminal Appeal No.152 of 2013** titled **Tofan Singh Vs. State of Tamil Nadu** decided by the Hon'ble Supreme Court on 29.10.2020 and contended that the officers who are invested with powers under Section 53 of the NDPS Act are police officers within the meaning of Section 25 of the Evidence Act. Any confessional statement made before the police officer would be hit by Section 25 of the Evidence Act. Statement under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under NDPS Act. Since the

petitioner has been nominated in the disclosure statement of Sukhdev Singh from whom the alleged contraband has been recovered, therefore, learned counsel for the petitioner prays for regular bail.

Learned State counsel, however, opposed the bail on the ground that huge quantity of contraband has been recovered. Petitioner is in custody since 01.04.2021. Investigation is complete, but FSL report is awaited.

In view of aforesaid factual position and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail without adverting to the merits of the case,.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

01.07.2021

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No