

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

**CRM-M No.36896 of 2021(O&M)
Date of Decision-21.09.2021**

Arjun Attwal @ Shahu
Versus

... Petitioner

State of Punjab

... Respondent

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

Present: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl., A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.23 dated 31.01.2020 registered under Sections 21, 25, 27-A and 29 of the NDPS Act at Police Station STF, District SAS Nagar, Mohali.

[2]. FIR was registered on the basis of statement of Rashpal Singh, AIG, STF, Border Range Amritsar with the allegations that the case bearing FIR No.20 dated 29.01.2020 was registered under Sections 21, 61, 85 of the NDPS Act and Sections 25, 54, 59 of the Arms Act against Happy, resident of Amritsar. The investigation of the said case was being conducted by Inspector Randhir Singh, STF, Border Range. Amritsar. A secret information was received on 31.01.2020 in the said case that the accused Happy and Ankush Kapoor had already been arrested in the aforesaid case and there

was additional information regarding them that Ankush Kapoor along with his companions namely Sukhwinder Singh, Major Singh, Tamanna Gupta, an Afghanistani Arman Bashar Mal along with other accomplices and family members have made a secret place in the area of Sultanwind Amritsar for keeping huge quantity of heroin for storage purposes for supplying the same further to their customers. The main ringleader was Ankush Kapoor and his companion Simarjit Singh Sandhu @ Simar. These persons have communications with the smugglers outside India in the countries like Dubai, Pakistan and Afghanistan etc. and Ankush Kapoor through his companion Simarjit Singh Sandhu @ Simar also used to exchange money through Hawala and smuggles heroin and other intoxicant substances at international level. The aforesaid persons kept a black coloured Verna car for making supply of heroin to their customers. All these persons were coming towards Amritsar City for having meals in the late night in the said Verna car. If naka is installed, then all these persons can be apprehended along with the car and heroin in big quantity can be recovered, which has been stored by them. The information was considered to be cogent and reliable and the FIR was registered.

[3]. Learned counsel for the petitioner submitted that even if, the allegations are taken to be on their face value, no offence beyond Section 29 of the NDPS Act is made out against the petitioner (though facts denied altogether). No recovery has been effected from the petitioner. Except the disclosure statements of the

co-accused, no offence has come against the petitioner to connect his alleged complicity in the present case. Learned counsel pleaded that the petitioner has no link with the alleged premises, from where the recovery has been allegedly made. The disclosure statements of Sukhwinder Singh and Major Singh in the context of alleged role of the petitioner, cannot be relied upon in view of ratio laid in **Criminal Appeal No.152 of 2013** titled **Tofan Singh Vs. State of Tamil Nadu** (in a bunch matter) decided by the Hon'ble Apex Court on 29.10.2020.

[4]. Learned State counsel, however, opposed the bail.

[5]. The complicity of the petitioner on the basis of disclosure statements of co-accused would remain debatable. No recovery has been effected from the petitioner, rather the same was effected from the house belonging to co-accused Anwar Masih. On that premise, the implication based on disclosure statement of co-accused would remain debatable in the light of ratio laid down in **Tofan Singh's case (supra)**.

[6]. At this stage, without meaning anything on merits of the case, it would be just and appropriate to direct the petitioner to be released on regular bail.

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

[8]. Nothing expressed hereinabove, would be construed to

be an opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

21.09.2021
Prince

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