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

**CRM-M-42452-2020
Date of decision: 22.11.2021**

JAGJIT SINGH @ JAGGI**...Petitioner**

VERSUS

STATE OF PUNJAB**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. L. S. Sekhon, 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. 0036 dated 06.04.2019, registered under Sections 22, 29 of the NDPS Act, 1985 and Section 27-A of the Drug and Cosmetics Act, 1945 at Police Station Chhajli, District Sangrur, Punjab.

Learned counsel for the petitioner submits that as per allegations in the FIR, SI Hira Singh along with other police officials was present on patrol duty when he received a secret information that co-accused namely Mohammad Suhail is bringing narcotic tablets in heavy quantity and is coming from Delhi side to Sangrur. It is further stated that the petitioner has given the money to him to bring the narcotic tablets.

Learned counsel for the petitioner further submits that later on, the police party arrested Mohammad Suhail and recovered 13500 narcotic tablets of Clovidol-100 SR having Tramadol Hydrochloride from him and

thereafter, his disclosure was recorded in which, name of the petitioner surfaced as a person who has asked him to bring narcotic tablets from Delhi.

Learned counsel for the petitioner further submits that the only evidence against the petitioner is disclosure of the co-accused and it will be a matter of trial whether the same is admissible against the petitioner.

Learned counsel for the petitioner further submits that the judicial custody of the petitioner as on today is 01 year and 11 months, charges were framed on 17.02.2020 and despite a lapse of over 01 year and 08 months, till date out of 18 prosecution witnesses, no prosecution witness has been examined.

Learned counsel for the petitioner further submits that though the petitioner is involved in one more FIR under the NDPS Act of 2018, however, he is on bail and is facing the trial.

Learned State counsel on the basis of the affidavit of the Incharge Police Post Mehlan, Police Station, Chaajli, District Sangrur has given the details of the investigation conducted. It is further stated that after the arrest of Mohammad Suhail, his disclosure was recorded in which, he named the petitioner. However, after the arrest of the petitioner nothing incriminating was recovered from him.

Learned State counsel does not dispute that there are 18 prosecution witnesses and till date none has been examined.

A perusal of the affidavit reveals that the petitioner is involved in 02 more FIRs under the IPC, one FIR under the Excise Act and one FIR under the NDPS Act and in one case under the IPC, he is acquitted, whereas, in all other cases, petitioner is on bail.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody for the last about 01 year and 11 months; he was nominated on the disclosure of the co-accused; charges were framed on 17.02.2020 and despite a lapse of more than 01 year and 08 months, no prosecution witness has been examined till date out of 18 prosecution witnesses cited by the prosecution 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

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No