

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(215)

CRM No. M-4239 of 2022

Date of Decision : 09.02.2022

Dheeraj @ Dhiraj Soni

....Petitioner

Versus

State of Haryana

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ram Kumar Saini, Advocate for the petitioner.

Mr. Karan Garg, Assistant Advocate General, Haryana.
(keeping in view advance copy given)

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 298 dated 04.07.2021, registered under Section 20 (B) (II) (C) of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Mahendergarh, District Mahendergarh.

Learned counsel for the petitioner argues that in the present case, no recovery of the contraband has been done from the petitioner and the same has only been done from co-accused, namely, Pardeep @ Noliya and Sahid @ Sahil and the petitioner has only been roped in the present case on the basis of the disclosure statement of the said co-accused. Learned counsel for the petitioner submits that the disclosure statement cannot be taken into account for any purpose much less convicting a person keeping in

view the judgment of the Hon'ble Supreme Court of India in Criminal Appeal No. 152 of 2013 titled as '*Tofan Singh Vs. State of Tamil Nadu*'.

Learned counsel further submits that as the investigation is already over and the challan has already been presented, keeping in view the fact that the trial is likely to take some time before it concludes, the petitioner may kindly be extended the concession of regular bail.

Notice of motion.

Mr. Karan Garg, learned Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel concedes the fact that petitioner was roped in the present case on the basis of the disclosure statement of co-accused but submits that initially as per the disclosure statement, the petitioner was one, who used to supply the contraband to other co-accused but whereas in the investigation, it has come that petitioner was selling the banned drug after getting the same supplied from other co-accused, who has been arrested, which is part of the disclosure statement of the petitioner and, therefore, prayer of the petitioner for the grant of regular bail may kindly be declined. Learned State counsel submits that not only this, even the petitioner identified the house from where the recovery was done from the other co-accused.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the fact that petitioner was roped in the

present case on the basis of the disclosure statement of other co-accused and concededly no recovery has been done from him, hence the rigors of Section 37 of Narcotic Drugs and Psychotropic Substances Act, 1985 will not apply upon the petitioner. Further as the investigation in the present case is also over and the trial is likely to take some time before the same concludes keeping in view the restricted working of the Courts due to pandemic of Covid-19 coupled with the fact that petitioner has undertaken before this Court not to influence the trial or the witnesses in any manner, he has made out a case for the grant of regular bail.

The petitioner is directed to be released on regular bail in this case subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

February 09, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	✓ Yes/No
Whether reportable?	✓ Yes/No