

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

**CRM-M-6369-2022
Date of decision: 27.04.2022**

Mohd. Faisal @ Rana

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Mahipal S. Yadav, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.65 dated 19.05.2021 under Sections 21/22/29/61/85 of NDPS Act, registered at Police Station City Dhuri, District Sangur.

The first petition, bearing CRM-M-52784-2021, was dismissed as withdrawn on 22.12.2021.

Learned counsel for the petitioner, at the very outset, relies upon order dated 16.11.2021 passed in CRM-M-29526-2021, vide which co-accused Najma Khatoon has been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per allegations in the FIR, a person, carrying a black coloured polythene bag, coming on feet was seen by the police party headed by ASI Darshan Singh. On seeing the police party, he became perplexed and after throwing

the bag, he started running away. The police apprehended him and thereafter, second Investigating Officer was called and recovery of 275 grams of intoxicant powder was effected from coaccused Mohd. Irfan. It is further submitted that during the investigation, coaccused Mohd. Irfan nominated the petitioner as a person, from whom he had acquired the contraband.

Learned counsel has further submitted that the petitioner is a lady and is having no previous history of involvement in any other case. It is also submitted that even after arrest of the petitioner, no recovery was effected from her, therefore, only evidence against her is disclosure statement of co-accused Mohd. Irfan. Learned counsel has relied upon a judgment of the Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu, 2013(4) RCR (Criminal) 631*, to submit that it will be a debatable issue whether the disclosure statement made by co-accused will be admissible against the petitioner or not."

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner submits that the petitioner is in judicial custody for the last more than ten months and his name also surfaced on the disclosure of co-accused Mohd. Sufiyan, who has already been granted the concession of regular bail by this Court, vide order dated 22.12.2021 passed in CRM-M-52780-2021.

Learned State counsel has filed the custody certificate and has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody for the last more than ten

months; he is not involved in any other case and also in view of the fact that similarly situated co-accused have already been granted the concession of regular bail as noticed above, 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/Illaqa Magistrate, concerned.

27.04.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No