

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

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**CRM-M-9971-2022
Date of decision : 14.03.2022**

MOHAN SINGH ALIAS BHUCHA

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Bikramjit Singh Baath, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

(Through video conferencing)

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 respect of FIR No.44 dated 10.04.2019 under Sections 22/61/85 of NDPS Act, registered at Police Station Division No.1, Jalandhar, District Jalandhar.

Learned counsel for the petitioner argues that in the present case, the petitioner has been roped in only on the basis of the disclosure statement of the co-accused namely, Suraj Bahadur, from whom the contraband was recovered and the said co-accused has already been granted the concession of regular bail by the Co-ordinate Bench of this Court on 18.11.2019. Learned counsel submits that as of now nothing more than the disclosure statement has come on record against the petitioner, therefore, keeping in view the settled principle of law as settled by the Hon'ble Supreme Court of India in Criminal Appeal No.152 of 2013 titled as Toofan Singh's case, the disclosure statement before the Police alone cannot be treated as evidence to convict an accused, the petitioner may kindly be

extended the concession of regular bail as the petitioner is behind bars since 25.05.2019 i.e. approximately three years.

Learned State counsel concedes the factum that the recovery of the contraband was done from the co-accused Suraj Bahadur, who has already

been extended the concession of regular bail by the Co-ordinate Bench of this Court on 18.11.2019 . The petitioner was roped in on the basis of the disclosure statement of the said co-accused that the person who alleged to have run away from the spot, was the petitioner, though, no recovery has been done from the petitioner.

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

As of now it is only the disclosure statement of the co-accused, which is implicating the petitioner in the present case. The co-accused from whom the recovery of the contraband was done and who had named the petitioner, is already granted the benefit of bail. Whether, the petitioner was the person who had run away from the spot or not, is yet to be proved during the trial and as the petitioner is already behind bars for the last three years and nothing was recovered from the possession of the petitioner, hence, Section 37 of NDPS Act is not applicable in the facts and circumstances of the present case qua the petitioner, hence, the petitioner has made out a case for the grant of regular bail as the trial is likely to take some time before it concludes keeping in view the restricted working of Court due to pandemic of Covid-19 and no useful purpose would be achieved keeping the petitioner behind the bars during the entire period trial.

Without commenting upon the merits of the case, it is directed

that the petitioner be released on regular bail, subject to the satisfaction of 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.

(HARSIMRAN SINGH SETHI)

JUDGE

14.03.2022

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Whether speaking/reasoned	Yes
Whether Reportable :	No