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

CRM-M No.12183 of 2022 (O&M)

Date of decision: 11.05.2022

Anuj Kumar @ Lambbu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Aditya Dassaur, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.75 dated 26.06.2021, for offence punishable under Sections 22/29 of the NDPS Act registered at Police Station Division No.2, Jalandhar, District Jalandhar.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of ASI Nishan Singh, while on petrol duty, they apprehended the co-accused Vimal Kumar @ Sunny on suspicion that he is carrying some intoxicant substance. Thereafter, 4500 intoxicant tablets were recovered from him and within 13 days, after the arrest of the co-accused Vimal Kumar, his disclosure statement was recorded on 09.07.2021, in which he has stated that he has purchased the aforesaid intoxicant tablets from the petitioner. On the basis of the same, the petitioner was nominated and arrested in the

case. It is further submitted that after the arrest of the petitioner, nothing incriminating intoxicant substance was recovered from him and he is the first offender and has no history of involvement in any such or similar case. It is also argued that the petitioner was granted the interim bail awaiting the report of FSL and after the regular bail was declined by the trial Court, he has surrendered back on time and has not misused the concession of bail.

Counsel for the petitioner has submitted that challan stands presented and charges are yet to be framed and therefore, it will take some time in recording the statement of 14 PWs. It is also submitted that even the main accused i.e. Vimal Kumar @ Sunny, from whom the recovery was effected, has already been granted the concession of default bail under Section 167(2) Cr.P.C.

Counsel for the petitioner has relied upon the judgment ***“Tofan Singh vs State of Tamil Nadu”*, 2021(4) SCC 1**, to submit that it will be a debatable issue whether the disclosure statement made by the co-accused will be admissible against the petitioner or not.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 02 months and 12 days; the main accused Vimal Kumar @ Sunny is already released on bail; the petitioner is the first offender and is not involved in any other case; charges are yet to be framed; the custodial interrogation of the petitioner is not required; the petitioner has been

nominated in the case on the basis of the disclosure statement of the co-accused and in view of the judgment of the Hon'ble Supreme in *Tofan Singh's case (supra)*, and the fact that conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

11.05.2022
yakub

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