

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

204

**CRM-M-19114-2022 (O&M)
Date of decision: 28.10.2022**

PREM

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr.Raman Chawla, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG Haryana.

AMAN CHAUDHARY. 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.355 dated 26.09.2021, under Sections 20/20C/61/85 of the NDPS Act, registered at Police Station Bawani Khera, District Bhiwani.

Learned counsel contends that the petitioner was not named in the FIR and it is only on the basis of a disclosure statement made by co-accused Anoop that his name surfaced, however, the same has not led to any recovery from the petitioner or disclosure of any new fact. He further contends that the co-accused was apprehended based on a secret information, Annexure P-4, wherein also the name of the petitioner was not mentioned. He further submits that the petitioner is in custody since 21.12.2021. It is his further submission that within a period of nine days, two FIRs were registered against the petitioner in different districts, the first one being in District Hisar and other one in District Bhiwani. He contends that the officials, who were the part of the

raiding party, are the same which shows his false implication. He further submits while referring to averments made in Para 8 and 10 of the petition that the co-accused Anoop had lodged FIR on 16.09.2021 under Section 379 IPC at Police Station Bawani Khera that his vehicle had been stolen, whereas, the co-accused had disclosed on 12.09.2021 that he had received a telephone call from Vinod for hiring his vehicle for the purpose of loading material. He further submits that neither the petitioner had been named in the entire challan nor had he made a call from his mobile to the co-accused. Insofar as first FIR is concerned, wherein also, he was implicated on the basis of disclosure statement, he is granted bail by this Court vide order dated 29.04.2022 (Annexure P-6). Learned counsel for the petitioner relies on upon the judgment of Hon'ble The Supreme Court in case titled as ***"Tofan Singh vs. State of Tamil Nadu"*** reported as ***2021(4) SCC 1*** and judgment passed in ***CRM-M-12051-2020***, by a coordinate Bench of this Court dated 17.06.2021 titled as ***"Mewa Singh Vs. State of Punjab"*** and the judgment passed in ***CRM-M-12997-2020*** titled as ***"Daljit Singh Vs. State of Haryana"***, to contend that the disclosure statement made before the police is inadmissible in evidence. He has also relied upon the judgment passed by a co-ordinate Bench of this Court dated 08.03.2022 titled as ***"Balwan Vs. State of Haryana"*** as also upon the judgment dated 20.09.2022 passed by this Court titled as ***"Virsa Singh Vs. State of Punjab"***. It is his further submission that challan has been presented on 23.02.2022, however, charges have yet not been framed. He further submits that there are 25 witnesses to be examined and thus the trial would take considerable time to conclude.

Contrarily, learned State counsel opposes the bail on the ground that the petitioner was arrested in the FIR No.228 dated 16.09.2021 on 10.11.2021 and in the present case he was arrested on 21.12.2021 and was

taken on production warrant. He submits that there was a call made to the petitioner as well on 12.09.2021. However, he is unable to controvert the fact that the petitioner is in custody since 21.12.2021 and charges are yet to be framed and that he has been granted bail by this Court in FIR No.228 ibid, vide Annexure P-6.

I have heard learned counsel for the parties.

In view of the above facts and circumstances as stated above, in particular that the petitioner is in custody since 21.12.2021; involved on basis of a disclosure statement of co-accused, which has not led to any recovery or disclosure of any new fact against the petitioner; he is granted bail in FIR No.228 dated 16.09.2021; challan has been filed; charges are yet to be framed and that there are 25 witnesses to be examined, thus the trial would take considerable time to conclude, his further detention behind bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.

5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The petitioner shall not in any manner misuse his liberty.
7. Any infraction shall entail in withdrawal of the benefit granted by this Court.

In view of the above, this Court makes it clear that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

October 28, 2022

S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No