

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

CRM-M No.28578 of 2022 (O&M)

Date of decision: 07.07.2022

Gurwinder Singh @ Karan Singh @ Lalu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Sidhu, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.119 dated 21.10.2021 registered under Sections 21(B) and 29 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station Bhikhiwind, District Tarn Taran.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of ASI Sukhdev Singh, it is stated that while on petrol duty, a young man was seen coming with a Black polythene bag and on seeing the police party, he became perplexed and tried to turn back, however, he was over-powered by the police party and thereafter, disclosed his name as Balwinder Singh @ Billa. Later on, recovery of 100 gms of Heroin was effected from the bag. It is further submitted that the petitioner is the first offender and he is not involved in any other case or any such or similar activity. It is also argued that the petitioner has been nominated in the case, on the basis of the disclosure statement of the co-accused Balwinder Singh @ Billa. Counsel for the petitioner has relied upon the judgment ***“Tofan Singh vs State of Tamil Nadu”, 2013(4) RCR (Criminal) 631, 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.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab who is present in the Court accepts notice on behalf of the respondent – State and could not dispute the factual position. It is also not disputed that the petitioner is not involved in any other case and his name surfaced only in the disclosure statement of the co-accused.

In view of the above, considering the fact that the petitioner is not involved in any other case under the NDPS Act; he 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)***, this petition is allowed and the petitioner is directed to appear before the Investigation Officer within a period of 15 days from today to join the investigation and he will be released on interim bail on furnishing bail/surety bonds to the satisfaction of the Investigating Officer subject to the conditions envisaged under Section 438(2) Cr.P.C.

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

07.07.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No