

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-29901-2022
Date of decision : 29.10.2022

Balvir Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sandeep Verma, Advocate
for the petitioner.

Mr.Tarun Aggarwal, Sr.DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.224 dated 11.09.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act 1985 (in short "NDPS Act") at Police Station Patran, District Patiala.

Learned counsel for the petitioner has submitted that in the present case, no recovery has been effected from the present petitioner and the alleged recovery has been effected from Ashok Kumar @ Goldi and the said Ashok Kumar @ Goldi has been granted regular bail by a coordinate Bench of this Court vide order dated 15.03.2022 passed in CRM-M-53092-2021. It is submitted that the petitioner was made an accused in the FIR on the basis of secret information but other than the secret information and the disclosure statement of the petitioner himself, there is no other material against the petitioner to link the petitioner with the alleged offence.

in case titled as *“Tofan Singh vs. State of Tamil Nadu”* reported as *2021 (4) SCC 1* in support of his arguments. It is stated that the petitioner had himself surrendered on 22.04.2022 and has been in custody since then and the challan has been presented and there are 16 witnesses and out of which, 5 have been examined and thus, the trial is likely to take time and the petitioner is not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case recovery of 1000 intoxicating tablets of white colour, packed in a strip labelled as “CLOVIDOL-100 SR” containing the salt Tramadol Hydrochloride was effected from co-accused namely, Ashok Kumar @ Goldi and as per the secret information received, the present petitioner is also a person who, along with Ashok Kumar, deals in narcotic substances. It is submitted that as per the Status Report, the incriminating material against the present petitioner to implicate him constitutes of his disclosure statement as per which, he has admitted that co-accused Ashok Kumar @ Goldi had taken 1000 intoxicating tablets of white colour, packed in a strip labelled as “CLOVIDOL-100 SR” containing the salt Tramadol Hydrochloride from the present petitioner. The other aspects have, however, not been disputed.

This Court has heard learned counsel for the parties and has perused the paper book.

The Hon'ble Supreme Court in *Tofan Singh's case* (Supra), had observed as under:-

“152. Thus, to arrive at the conclusion that a confessional statement made before an officer designated under [section 42](#) or [section 53](#) can be the basis to convict a person under the NDPS

Act, without any non obstante clause doing away with section 25 of the Evidence Act, and without any safeguards, would be a direct infringement of the constitutional guarantees contained in Articles 14, 20(3) and 21 of the Constitution of India.”

No recovery has been effected from the present petitioner. The alleged recovery of 1000 intoxicating tablets of white colour packed in a strip labeled as “CLOVIDOL-100 SR” containing the salt Tramadol Hydrochloride has been effected from Ashok Kumar @ Goldi and said Ashok Kumar @ Goldi has been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 15.03.2022 passed in CRM-M-53092-2021. The case of the petitioner is on a better footing than that of co-accused Ashok Kumar @ Goldi. It is not in dispute that the only material against the petitioner is the secret information on the basis of which the petitioner was named in the FIR and his own disclosure statement. The petitioner had surrendered on 22.04.2022 and has been in custody since then and the challan has been presented and there are 16 witnesses and out of which, 5 have been examined and thus, the trial is likely to take time and the petitioner is stated to be not involved in any other case.

Keeping in view the above-said facts and circumstances as well as the law laid down in the above-said judgment, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case. The petitioner shall also 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 witness(s).
3. The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
4. The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
5. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

October 29, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No