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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31184-2022

Date of Decision: September 13, 2022

BAZZ SINGH ALIAS BAZZI

....Petitioner(s)

VERSUS

STATE OF HARYANA

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Tarun Seth, Advocate for
Mr. Vikas Bishnoi Godara, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

AMAN CHAUDHARY, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in respect of FIR No.310 dated 15.03.2022 under Sections 21(B)/27-A of NDPS Act, registered at Police Station Sadar Hisar, District Hisar.

Brief facts of the case are that on 15.03.2022, on receipt of a secret information, the police conducted nakabandi on Bagla Road, South bye-pass road and a young boy was found coming on CD Deluxe motorcycle. On seeing the police, the said boy tried to turn back, however, he was apprehended by the police officials. On enquiry, he told his name as Bhupender Singh @ Gugu @ Babbu, Notice under Section 50 of NDPS Act was served upon him. In pursuance of his reply, the accused was searched in

the presence of Sh. Abhimanyu, Deputy Superintendent of Police, Hisar. A white coloured polythene bag was recovered from the trousers of accused. The polythene bag was found containing 20 grams of Chitta/Heroin. After completing the necessary formalities of measurement and preparation of inventory of contraband recovered from the accused, the accused was arrested in the present FIR. During the course of investigations, the accused made disclosure statement that he had purchased the contraband from Baaz Singh @ Baji son of Rajender for a sum of Rs.20,000/-.

Learned counsel for the petitioner submits that the petitioner has not been named in the FIR and has been implicated upon the nomination by the co-accused Bhupender Singh@Gugu@Babbu, in his disclosure statement, which the learned counsel submits is inadmissible in evidence as per settled law. He further submits that the said co-accused has also been granted concession of regular bail vide order dated 21.04.2022, passed by Addl. Sessions Judge, Hisar. He further submits that the petitioner has been in custody since 18.04.2022 and there is no recovery that has been effected from him. He relies on the judgment passed by the Hon'ble Supreme Court of India in ***"Tofan Singh Vs. State of Tamil Nadu" 2020 SCC Online SC 882***, and also in the case of ***Surinder Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence*** and submits that unless there is a corroborative evidence, the disclosure statements are not admissible.

Learned State counsel opposes the bail on the ground that there are five more cases under the NDPS Act against the petitioner. He further submits that the case is now fixed for framing of charges on 15.09.2022. He, however, does not dispute that the petitioner has been nominated on the

basis of disclosure statement and that he has been in custody since 18.04.2022.

Hon'ble Supreme Court in "**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**", reported as **2012(2) SCC 382** that bail application cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

Heard learned counsel for the parties.

In view of the facts and circumstances of the present case that the petitioner is nominated on the basis of the disclosure statement of the co-accused; who has also been granted regular bail; and the petitioner has been in custody since 18.04.2022; no recovery has been effected from him and the trial is likely to take some time as even the charges are yet to be framed, no useful purpose would be served by keeping the petitioner in custody further and he deserves to be released on bail.

Resultantly, 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 pressurise/ 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.

It is, however, clarified that nothing stated hereinabove be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made above, which have only been made for the purpose of adjudicating the present petition for grant of regular bail.

13.09.2022

Sangeeta

**(AMAN CHAUDHARY)
JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No