

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CRM-M-45983 of 2021
Date of Decision:10.03.2022

Inderaj Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ritesh Pandey, Advocate,
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

Vide this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 of the Cr.P.C., upon FIR no.49, dated 29.06.2019, having been registered at Police Station Fatehgarh Churian, Police District Batala, alleging therein the commission of offences punishable under Sections 21 of the NDPS Act, 1985, (with Section 29-A of the Act added later).

On 11.02.2022 the following order had been passed by this court:-

“Case heard via video conference.

Vide this application, advancement of the date of hearing in the accompanying petition is sought, which otherwise stands adjourned to 07.04.2022, with learned counsel pointing to the order of this Court dated 24.11.2021, wherein it was noticed that he had sought to rely upon the judgment of the Supreme Court in Tofan Singh Vs. State of

Tamil Nadu (Crl. Appeal No.152 of 2013, decided on 29.10.2020), to submit that the petitioner cannot be arraigned as an accused simply on the basis of a disclosure statement made in the police custody.

Without making any comment on whether the judgment of Tofan Singh's case (supra) will apply or not to the case of the petitioner, that being one essentially with regard to the Section 67 of the NDPS Act, 1985, notice is issued in this application.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab, accepts notice at the asking of the Court on behalf of respondent.

The application is allowed and the date of hearing in the accompanying petition is advanced to 10.03.2022.

Learned State counsel would obviously have gone through the matter thoroughly and would address arguments thereafter."

Today learned counsel for the petitioner reiterates that the petitioners' name having been disclosed by a co-accused in police custody, that would have no evidentiary value whatsoever, no recovery having been made from the petitioner thereafter; and consequently the petitioner would be entitled to the concession of bail under Section 37 (1) (b) (ii) of the Act of 1985.

Upon query to learned State, in terms of the reply filed by the DSP, Sub Division Fatehgarh Churian, dated 06.12.2021, he submits that the petitioners' name having been disclosed by his co-accused Raju Masih, from whom 288 grams of Alprazolam are stated to have been recovered as per the investigating agency (commercial quantity), the bar contained in Section 37 would apply.

Having considered the matter, though of course it would still appear to be slightly strange to this court that when there is no other criminal case registered against the petitioner, how the police would 'dream up' his name to falsely implicate him unless his name was actually disclosed by another

co-accused, yet, since the disclosure statement is stated to have made in police custody, with no recovery actually made from the petitioner, at least for the purpose of this petition, I would agree with learned counsel for the petitioner that it is difficult to completely link him to the recovery in question simply on the basis of such statement made in custody.

Consequently, again without making any comment on the actual merits of the case, the petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial court, with him also having been in custody for one year and four months, with the trial still not having effectively commenced.

The reply of the DSP is ordered to be taken on record.

March 10, 2022
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No