

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

CRM-M-56171-2022

Date of Decision:-08.12.2022

Lal Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Tanvir Singh Attariwala, Advocate for the Petitioner.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.216 dated 06.12.2020 under Sections 22 and 29 of the NDPS Act, 1985 registered at Police Station Dugri, District Ludhiana, Punjab.

The brief facts of the case are that SI Jaswinder Singh got recorded the present FIR stating that he was posted as Additional SHO, Police Statoin Dugri, Ludhiana. On 06.12.2020 he had brought out Harjinder Pal Singh @ Harjinder Kumar @ Shankar @ Jinda son of Buta Ram accused in FIR No.215 dated 01.12.2020 under Sections 364-A, 369, 342, 506, 381, 473 IPC registered at Police Station Dugri, Ludhiana who was lying confined in the lockup of the police station during police remand for conducting interrogation. Harjinder Pal Singh @ Harjinder Kumar @

Shankar @ Jinda disclosed before him (SI Jaswinder Singh) that he i.e.

Harjinder Pal Singh @ Harjinder Kumar @ Shankar @ Jinda and Lal Singh (petitioner) were smuggling drugs together since long and he had kept some quantity of intoxicating powder which was a remaining part of consignment brought by him and Lal Singh in a black colour polythene bag in a ventilator above the door of his house and could get the same recovered. Based on the said disclosure statement the present FIR came to be registered against Harjinder Pal Singh @ Harjinder Kumar @ Shankar @ Jinda and the present petitioner while 290 grams of aplrazolam powder came to be recovered from Harjinder Pal Singh @ Harjinder Kumar @ Shankar @ Jinda. Nothing was recovered from the petitioner.

The Counsel for the petitioner contends that the petitioner is named in the disclosure statement of his co-accused. Pursuant to the said disclosure statement, no recovery whatsoever has been effected from the petitioner. The Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu, 2020 AIR (Supreme Court) 5592, Rakesh Kumar Singla Vs. Union of India 2021(1) RCR (Criminal) 704, State by (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta &Anr. 2022(1) RCR (Criminal) 762, Surinder Kumar Khanna Vs. Intelligence Officer, Director of Revenue Intelligence, 2018(3) RCR (Criminal) 954 and Sanjeev Chandra Aggarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590** has held that a disclosure statement is inadmissible in evidence. The Hon'ble Supreme Court in **State of Haryana Vs. Samarth Kumar 2022(3) RCR (Criminal) 991** has held that the grant of regular bail can be considered while relying on *Tofan Singh's case (supra)*. Even otherwise the petitioner is in custody since 06.12.2020 and none of the prosecution witnesses have been examined so far and, therefore, as the trial of the

present case was not likely to be concluded anytime soon, the further incarceration was not required.

The Counsel for the State on the other hand contends that the petitioner was an accused in FIR No.215 dated 01.12.2020 under Sections 364-A, 369, 342, 506, 381, 473 IPC registered at Police Station Dugri, Ludhiana (Annexure P-2) along with his co-accused Harjinder Pal Singh @ Harjinder Kumar @ Shankar @ Jinda who had disclosed the name of the petitioner. Therefore, the allegations against the petitioner did not entitle him to the grant of bail. He however, fairly concedes that no recovery has been effected from the petitioner and he has been in custody for last 2 years.

I have heard learned Counsel for the parties at length.

As per the case of the prosecution, the name of the petitioner figures in the disclosure statement of his co-accused who was arrested in another FIR No.215 dated 01.12.2020 under Sections 364-A, 369, 342, 506, 381, 473 IPC registered at Police Station Dugri, Ludhiana (Annexure P-2). Pursuant to the said disclosure statement, though recovery was effected from Harjinder Pal Singh @ Harjinder Kumar @ Shankar @ Jinda but no recovery has been effected from the petitioner. Therefore, it would be a matter of adjudication during trial as to whether the evidence available against the petitioner is sufficient to establish his guilt. At this stage, the further incarceration of the petitioner is not required, more so when no other FIR under the NDPS Act stands registered against the petitioner.

Thus, without commenting on the merits of the case, the present petition is allowed and petitioner-**Lal Singh** son of Sh. Shamsher Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

In addition, the petitioner (or any one on their behalf) shall prepare a FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

Petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 08, 2022

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>