

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

CRM-M-56922-2022

Date of decision : 12.12.2022

Sinder Singh

....Petitioner

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. V.B. Godara, Advocate
for the petitioner.

Mr. R.K. Ambavta, Asstt. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. For grant of regular bail to the petitioner in case FIR No.387, dated 23rd of July, 2022 registered for the offences punishable under Sections 21-b, 27-A of the NDPS Act, 1985, at Police Station City Fatehabad, District Fatehabad.

2. Ld. Counsel for the petitioner submits that the petitioner was not named in FIR but was nominated on the disclosure suffered by co-accused Jagdeep Singh @ Jagga from whom recovery of 52.40 grams of *heroin* was effected. No recovery of any sort of contraband was made from the petitioner. The petitioner is in custody since 3rd of September, 2022. Investigation is complete and Challan stands presented. He further relies upon the order passed by this Court dated 28th of September, 2022 whereby Jagdeep Singh @ Jagga stands admitted to bail pursuant to the said order passed in CRM-M-44148-2022 and order dated 2nd of December, 2022

passed in CRM-M-49461-2022 whereby co-accused Kamal Preet also stands admitted to bail.

3. Ld. Counsel for the petitioner further contends that apart from the disclosure so suffered by the Jagdeep Singh @ Jagga being weak evidence and not admissible in terms of law laid down in **Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1**, false implication of the petitioner is evident from the records of the case.

4. Ld. State Counsel does not dispute the aforesaid factual assertions made by counsel for the petitioner and admits that the petitioner is a first time offender and there is no other case pending against him under the provisions of the NDPS Act.

5. Having heard counsel for the parties and after going through the records of the case, in the considered opinion of this Court keeping in view the prolonged incarceration already suffered by the petitioner and in view of the fact that co-accused(s) Jagdeep Singh @ Jagga and Kamal Preet already stand admitted to bail, as also in view of the law laid down by Apex Court in **Tofan Singh's** case (supra) to the following effect that :-

“**158.2.** That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.”

the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds subject to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

6. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 12, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No