

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

222

CRM-M-16487 of 2023  
DATE OF DECISION:- 13.04.2023

Hira Lal @ Vijay

...Petitioner

vs.

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Mihir Sood, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A. G., Haryana.

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**HARKESH MANUJA, J.**

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner is seeking grant of regular bail pending trial in FIR No.24 dated 16.01.2021 (Annexure P-1) for the offence under Sections 20(ii)C, 29, 61, 85 of NDPS Act, 1985, registered at Police Station Tosham District Bhiwani (Haryana).

Petitioner was implicated in the aforementioned FIR based on the disclosure made by his co-accused Gulab Singh from whom 50 Kg. of ganja was recovered.

Learned counsel for the petitioner submits that the investigation in the present case already stands concluded with the filing of *challan* followed by framing of charges and out of the total 17 witnesses cited by the prosecution, only 6 have been examined so far. Learned counsel further submits that in the present case no recovery has been effected from the petitioner and he is already behind the bars for the last more than seven and half months and conclusion of the trial is likely to take some time, besides, the evidentiary value of the disclosure has to be scrutinized during trial, thus,

the petitioner deserves concession of regular bail.

On the other hand, learned State counsel opposes the prayer made herein while submitting that one another case under NDPS Act has also been registered against the petitioner wherein, he is already on bail.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

In the present case, no recovery has been effected from the petitioner and he has merely been implicated on the basis of disclosure statement made by one of the co-accused Gulab Singh. The petitioner has already suffered incarceration for the last more than seven and half months and the trial is likely to take some time as only 6 witnesses out of 17 have been examined as cited by the prosecution. The evidentiary value of the disclosure statement has to be adjudicated upon during trial. Even Hon'ble Supreme Court in case of **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 the disclosure statement of an accused against the co-accused would be inadmissible in evidence.

Without commenting anything on the merits, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction

of the concerned learned trial Court/Duty Magistrate.

However, nothing expressed hereinabove shall be construed as an expression on the merits of the case.

13.04.2023  
anil

(HARKESH MANUJA)  
JUDGE

whether speaking/reasoned: Yes/No  
whether reportable: Yes/No