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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-M No.19643 of 2023 (O&M)****Date of Decision: 19.07.2023**

Pawan Kumar @ Darvesh @ Mota

..... Petitioner

V/s.

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

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Present: Mr. Parminder Walia, Advocate  
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

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**JASGURPREET SINGH PURI, J (Oral)**

1. The present is first petition filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in FIR No.335 dated 08.06.2022, under Sections 18, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Pinjore, District Panchkula.

2. Reply filed by way of an affidavit of Assistant Commissioner of Police, Panchkula on behalf of respondent-State, is taken on record.

3. Learned counsel for the petitioner has submitted that the petitioner was named on the basis of a disclosure statement. He submitted that initially the police had arrested Anil Bhalla in FIR No.252 dated 31.5.2022 and as per prosecution in that FIR he gave a statement that the opium was recovered from his wife and his daughter-in-law which was purchased from one Nirmal Singh, the co-accused. On disclosure statement, the house of aforesaid Nirmal Singh was raided and there was a recovery of 3 Kgs 564 gms of opium. Thereafter, on further

disclosure statement of Nirmal Singh, another co-accused Amar Kusari @ Nepali

was arrested and further on his disclosure statement, the name of the petitioner was nominated in which a separate FIR was registered. He submitted that there was no recovery at all from the petitioner and the petitioner is not having any criminal background and he is not involved in any other case. He further submitted that it is on the basis of the aforesaid statement of co-accused that the name of the petitioner was nominated and now he has been facing incarceration since 08.12.2022 which is more than 07 months. He further submitted that the investigation of the case has been completed and therefore, considering the aforesaid facts and circumstances, he may also be considered for grant of regular bail. He has further referred to the judgment of Hon'ble Supreme Court in *Tofan Vs. State of Tamil Nadu [2021(1) RCR(Criminal)1]*.

4. On the other hand, learned State counsel has stated that it is correct that the petitioner is in custody since December, 2022 which comes out to be about 07 months and is not involved in any other case and no recovery has been effected from the petitioner. He further submitted that it is also correct that his name was nominated on the basis of further disclosure statement at third stage.

5. I have heard learned counsel for the parties.

6. It is a case where the petitioner has faced incarceration for about 07 months and he was arrested on the basis of a disclosure statement of the co-accused at the third stage. Even as per learned counsel for the parties, there was no recovery effected from the present petitioner. Therefore the bar contained under Section 37 of the NDPS Act will not apply in the present petition.

7. In view of the aforesaid totality of circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner.

8. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of

the learned trial Court/Duty Magistrate concerned, if not required in any other case.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

10. Since the main petition has been allowed, all the pending application(s) also stand(s) disposed of.

**19<sup>th</sup> July, 2023**

Sonia Puri

**(JASGUPREET SINGH PURI)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No