

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218

CRM-M-21143-2023
Date of decision: 03.05.2023

JAGDISH @ TITU

....Petitioner

Versus

STATE OF HARYANA

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kuldeep Singh Siwach, Advocate
for the petitioner
Mr. Dhruv Sihag, AAG, Haryana

AMAN CHAUDHARY. J.

1. Present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case of FIR No. 676 dated 12.12.2022, registered under Sections 15(b) and 27-A of the NDPS Act at Police Station Fatehabad, District Fatehabad.
2. Learned counsel contends that the petitioner has been in custody for the last more than 4 months having been arrested on 15.12.2022. He was not named in the FIR, however, his name has surfaced based on the disclosure statement of the co-accused namely Mulkh Raj @ Raj, from whom non-commercial quantity of contraband was effected, has been granted regular bail by this Court vide order dated 12.04.2023. No recovery has been effected from the petitioner, even the vehicle said to have been used to transport the contraband was in the ownership of the abovesaid co-accused. He relies on the judgment passed by Hon'ble The Supreme Court in the case of **Toofan Singh vs. State of Tamil**

Nadu, 2021 (1) RCR (Crl.) 1. Though, challan has been presented, however, charges have not been framed and in all, there 15 prosecution witnesses. He is not involved in any other case.

3. Learned State counsel opposes the bail on the ground that the contraband was recovered from the conscious possession of the co-accused Mulkh Raj @Raj and the petitioner had transported the said contraband. However, he is unable to controvert the submissions with regard to the custody, stage of the case, his non-involvement in any other case and the co-accused has already been granted bail.

4. Heard.

5. In view of the facts and circumstances of the case, the observations made in aforesaid judgment, and that the petitioner has been in custody for the last more than 4 months; co-accused has already been granted regular bail; he is not involved in any other case; challan has been presented, however, charges are yet to be framed and in all, there are 15 prosecution witnesses; the trial is likely to take considerable time, his incarceration would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

6. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of

which, he is an accused, or for commission of which he is suspected of.

5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

6. The petitioner shall not in any manner misuse his liberty.

7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

7. It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

8. In view of the above, it is clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

03.05.2023

Mehak

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No