

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

CRM-M-20885-2023

Date of decision : 21.07.2023

MOHAMMAD HASIM

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

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 F.I.R. No.12 dated 19.01.2022 registered for the offences punishable under Sections 21, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Gate Hakima, District Amritsar.

2. Custody Certificate of the petitioner filed in Court today. The same is taken on record.

3. Counsel for the petitioner submits that the petitioner has been nominated on the disclosure statement suffered by Prabhjodh Singh @ Sonu, who along with Gurjodh Singh @ Jodha was apprehended and from the rear seat of the motor-cycle of Gurjodh Singh @ Jodha 270 grams of *heroin* was recovered. Counsel for the petitioner relies upon order dated 27th of April, 2022 passed by Co-ordinate Bench of this Court in CRM-M

No.16466 of 2022 whereby Prabhjodh Singh @ Sonu @ Prabjot Singh stands admitted to bail. Apart from that it has been contended that the petitioner has already suffered incarceration of more than 1 year 3 months and 8 days. The petitioner having been nominated merely by taking aid to Section 29 of the NDPS Act would be entitled for benefit of law laid down by Apex Court **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1**.

4. State Counsel does not dispute the afore-stated factual assertions based on record.

5. I have heard counsel for the parties and have gone through records of the case.

6. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and in view of law laid down by the Apex Court in **Tofan Singh's** case (supra), the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence

similar to the one alleged in the present case.

- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

7. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

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

July 21, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No