

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-20874-2023 (O&M)

Date of Decision:19.07.2023

Mukhtyar Khan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. D.S. Virk, Advocate and
Mr. K.L. Saini, Advocate for the petitioner.

Mr. Surender Singh, AAG, Haryana.

HARSIMRAN SINGH SETHI J.(Oral)

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No.228 dated 11.09.2019, registered under Sections 15/27-A of NDPS Act, 1985, registered at Police Station Sadar Narwana, District Jind.

2. Learned counsel for the petitioner submits that the petitioner has not been named in the FIR and no recovery of the contraband has been effected from him, hence, as no material has come on record even after the completion of the investigation except the disclosure statement of the co-accused namely Bablu from whom the contraband was recovered, keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in **Criminal Appeal NO.152-2013** titled as **Tofan Singh Vs. State of Tamil Nadu**, petitioner may kindly be extended the concession of regular bail as the trial is likely to take some time before it conclude

3. Notice of motion.

4. Mr. Anmol Kumar Sandhu, learned Assistant Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

5. Learned State counsel concedes the factum that the petitioner was roped in the present case on the basis of disclosure statement of the co-accused Bablu and no recovery of contraband has been effected from the petitioner. Learned State counsel further submits that the petitioner is also facing a case registered under NDPS Act outside the State of Haryana which is still under trial hence the prayer of petitioner for grant of regular bail may kindly be declined. Learned State counsel further submits that out of the total 25 cited witnesses, no witness has been examined till now.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Once, it is a conceded fact that the petitioner was not named in the FIR and has been roped in on the basis of the disclosure statement of the other co-accused and keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in Tofan Singh's case (supra) Nadu, decided on 29.10.2020 the petitioner has made out a case for the grant of regular bail especially, when no other material apart from the disclosure statement has been brought to the notice of this Court coupled with the fact that trial is likely to take some time before it conclude and none of the 25 cited witnesses has been examined so far.

8. Qua the pendency of another case registered under NDPS Act outside the Haryana is concerned, the allegation alleged in the said FIR are yet to be proved in the trial, hence the said fact cannot come in the way of petitioner to

seek regular bail in the present case, especially when learned counsel for the petitioner has undertaken before this Court that the petitioner will not obstruct the trial or influence the witnesses, whose statements are yet to be recorded in any manner. In case of default of the above undertaking, the State will be at liberty approach this Court for passing appropriate orders.

9. Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail in case he is not required to be kept behind the bars in any other case subject to the satisfaction of trial Court/Duty Magistrate concerned.

10. However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case..

(HARSIMRAN SINGH SETHI)
JUDGE

19.07.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No