

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-24366-2023 (O&M)

Date of decision: 13.07.2023

Makhan

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sushil Sheoran, Advocate for the petitioner

Mr. Dhruv Sihag, AAG Haryana

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.143 dated 08.08.2022, registered under Sections 20, 27-A, 61 and 85 of NDPS Act, at Police Station Jakhal, District Fatehabad.

2. Learned counsel contends that the petitioner is in custody for the last about 11 months. His name surfaced based on the disclosure statement of co-accused Ram and Mahender, who are in custody and commercial quantity of contraband was recovered from them, which is inadmissible in the eyes of law as per the judgment passed by Hon'ble The Supreme Court in the case of **Tofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Crl.) 1. No recovery has been effected from the petitioner. There is no call record to connect him with the said co-accused. Challan was presented on 03.04.2023, however, the charges have not been framed. In all there are 11 prosecution witnesses. The petitioner is not involved in any other case. He relies on the order passed by Co-ordinate Bench of

this Court in **Sandeep Kumar @ Gogi vs. State of Haryana** in CRM-M-24505-2022 decided on 07.12.2022, wherein also the petitioner was implicated on the basis of disclosure statement, no recovery had been effected from him, and was granted regular bail after a custody being of almost 9 months.

3. Learned State counsel opposes the bail on the ground that the commercial quantity of contraband has been recovered from the co-accused of the petitioner. He is however unable to controvert the submissions with regard to custody, stage of the case and the petitioner not being involved in any other case.

4. Heard.

5. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last about 11 months; no recovery was effected from him; is involved on the basis of disclosure statement; is not involved in any other case; challan stands presented on 03.04.2023, however, the charges are yet to be framed; in all there are 11 prosecution witnesses, the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, 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:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) 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.

- (v) 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.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) 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.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

7. It is made abundantly clear that in case there is any breach 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 are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

July 13, 2023
M.Kamra

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