

2023:PHHC:084986

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

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CRM-M-29690-2023

Date of decision : 06.07.2023

Kamlesh Kumar**..... Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. J.S. Sandhu, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.53 dated 11.08.2022, registered for offences punishable under Sections 22, 22(C) and 29 of NDPS Act at Police Station Kotfatta, District Bathinda.

2. Counsel for the petitioner submits that the petitioner was neither apprehended nor named in the FIR. The main accused in the FIR from whom contraband was recovered namely Gurpreet Singh @ Pitta suffered a disclosure, wherein he nominated one Mintu. After Mintu was nominated, his house was searched which led to recovery of 3200 tablets of Alprazolam and 200 tablets of Tramadol. Gurpreet Singh @ Pitta nominated the present petitioner as well, however, no recovery could be effected from him. Counsel further submits that the investigation already stands concluded, challan has been presented and apart from disclosure of Gurpreet Singh @ Pitta, there being no

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evidence on record that links the petitioner to the present case. There is hardly any chance that the petitioner would be convicted in terms of law laid down by Apex Court in *Tofan Singh vs. State of Tamil Nadu reported as (2021) 4 SCC 1*.

3. Per contra, learned State counsel does not dispute that apart from disclosure statement made by Gurpreet Singh @ Pitta, there is no evidence on record and no recovery could be effected from the petitioner.

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

5. As per custody certificate produced on record, the petitioner has already suffered incarceration of more than 10 months and 19 days.

6. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner and law laid down by Apex Court in *Tofan Singh’s case (supra)*, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

06.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No