

2023:PHHC:086100

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRM-M-31383-2023
Date of Decision : 10.07.2023

Vishal alias Pali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Gurmeet Kaur, Advocate for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

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.34, dated 13.04.2023, under Sections 21/29/27(a) of the NDPS Act, 1985, registered at Police Station Tibber, District Gurdaspur.
2. Learned counsel for the petitioner argues in the present case the petitioner was not named in the FIR and only the recovery of 5 grams of heroin, which is non-commercial in quantity, was recovered from the co-accused Gagandeep Singh and Satnam Singh and the petitioner has been roped in on the basis of disclosure statement of the co-accused that they had purchased the said contraband from the petitioner.
3. Learned counsel submits that the petitioner is behind bars for the last more than one and half months, but no material evidence has come on record in the investigation beyond the disclosure statement of co-accused.
4. Learned counsel further submits that as no recovery of contraband has been effected from the petitioner and the same has only been recovered from the co-accused and even the quantity of contraband recovered from the

co-accused is non-commercial, the petitioner be granted the concession of regular bail as the allegation made in disclosure statement of co-accused is yet to be proved.

5. Learned counsel for the respondent-State on the other hand submits that the investigation is in progress and the petitioner has been named by the co-accused to the effect that the contraband was purchased by them from the petitioner, the prayer of the petitioner for the grant of regular bail may kindly be declined.

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

7. No material except the disclosure statement of the co-accused has been brought to the notice of this Court so as to implicate the petitioner in the present FIR. It is the conceded position that no recovery of the contraband has been made from the petitioner.

8. Keeping in view the facts and circumstances of the present cases and the settled principle of law as settled by the Hon'ble Supreme Court of India in **Tofan Singh vs. State of Tamil Nadu** in Criminal Appeal No.152 of 2013, decided on 29.10.2020, coupled with the fact that the allegations alleged in the disclosure statement are yet to be proved during the course of the trial, no useful purpose would be served keeping the petitioner behind the bars especially when learned counsel for the petitioner has undertaken before this Court that in case the petitioner is granted the concession of bail he will not influence the trial or the witnesses in any manner.

9. In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court concerned/Duty Magistrate.

10. It is made clear that in case the petitioner violates the said undertaking, the State will be free to move the appropriate application.

11. 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.

July 10, 2023

dharamvir

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No