

CRM-M-31775-2023

2023:PHHC:086259

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

(224)

CRM-M-31775-2023

Date of Decision : July 11, 2023

Bablu

.. Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Surender Singh, AAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No. 511 dated 30.06.2021 registered under Sections 20, 25 and 29 of the NDPS Act, 1985 at Police Station City Karnal, District Karnal.

2. As per the averments made in the petition, the petitioner was not named in the FIR but was roped in the present case only on the basis of the statement of co-accused Ashwani Kumar to the effect that the contraband i.e. 25 kgs of '*ganjapati*' recovered from the said co-accused Ashwani Kumar was purchased from the petitioner. From the record, it further transpires that the petitioner had surrendered himself on 28.04.2023 but even thereafter no recovery of any contraband has been done from the

petitioner. The prayer of the petitioner is that, as the allegations made in the

disclosure statement are yet to be proved during trial and no recovery of any contraband has been done from the petitioner, he may kindly be extended the benefit of regular bail keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in *Criminal Appeal No. 152 of 2013 titled as Tofan Singh Vs. State of Tamil Nadu, decided on 29.10.2020*.

3. Notice of motion.

4. Mr. Surender Singh, learned Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of respondent-State.

5. Learned State counsel does not dispute the fact that the petitioner has been involved in the present FIR only on the basis of the disclosure statement of the co-accused Ashwani Kumar and no recovery of any contraband has been done from him but submits that there are two other cases pending against him, which shows that the petitioner is a habitual offender.

6. I have heard learned State counsel and have gone through the record with his able assistance.

7. From the facts which have been brought to the notice of this Court, the petitioner has been involved in the present FIR only on the basis of the disclosure statement of co-accused Ashwani Kumar from whom 25 kgs of 'ganjapati' was recovered. The allegations made in the disclosure statement by co-accused Ashwani Kumar are yet to be proved before the Court. Keeping in view the fact that no recovery of any contraband has been done from the petitioner, though there are two other cases pending against the petitioner but he has already been granted anticipatory bail in those

cases and as the trial in respect of the present FIR is likely to take some time before it concludes, no useful purpose will be served in keeping the petitioner behind the bars during the entire period of trial.

8. Keeping in view 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/Duty Magistrate concerned.

9. Petitioner is directed to not to influence the trial or the witnesses in any manner and in case of default of the above direction, State will be at liberty to approach this Court for passing appropriate orders.

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.

July 11, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes