

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32599-2023
Date of decision:- 19.09.2023

Jasbir Singh
... Petitioner

Versus

State of Haryana
.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Saransh Sabharwal, Advocate
for the petitioner.

Mr.Munish Sharma, DAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
310	29.11.2022	Ambala Sadar, District Ambala	15 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”

2. Version of the prosecution is that FIR, Annexure P1, has been registered on the basis of secret information that Tarsem Singh and Jaspal Singh @ Jassi are travelling in a truck with narcotic substance. A police barricade was set up, the truck was intercepted and recovery of 13 quintal 44

kg of poppy-husk was made from 45 bags, which were hidden underneath old newspapers and books.

3. Counsel for the petitioner contends that the petitioner is neither named in the FIR nor any recovery has been effected from him. He submits that petitioner has been arraigned as an accused on the basis of disclosure statement of a co-accused, which has been recorded in police custody and is inadmissible in evidence. He has placed reliance upon the judgment of the Supreme Court in Tofan Singh Versus State of Tamil Nadu, (2021) 4 SCC 1. He submits that the petitioner, who is in custody since 05.01.2023 deserves to be enlarged on bail as he has clean antecedents and investigation qua him has been completed. He has also placed reliance upon order dated 13.09.2023 passed by learned Additional Sessions Judge, Ambala, whereby co-accused Harvinder has been granted regular bail.

4. Opposing the petition, learned State Counsel upon instructions from ASI Gurwinder Singh submits that the recovery effected from the co-accused falls within the ambit of commercial quantity in terms of the notification issued under the NDPS Act. He has made a reference to Section 37 of NDPS Act to urge that the petitioner cannot be released on bail. As per his instructions, charge has not been framed.

5. I have heard and considered the submissions made by counsel for the parties.

6. A perusal of the custody certificate dated 12.07.2023, which is available on the record, shows that the petitioner has clean antecedents. He has been made an accused on the basis of disclosure statement of a co-accused. Undisputedly no recovery has been effected from him and upon

conclusion of investigation, final report has been presented against the petitioner. Considering these factors, this Court is inclined to accept the prayer made in the petition.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned. The petitioner shall furnish a solvent local surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

19.9.2023
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No