

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33723-2023 (O&M)
Date of Decision: 20.07.2023

Jabarvir Singh @ Babbu

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Dinesh Nagar, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.0042 dated 14.05.2022, under Sections 22, 29 of NDPS Act, registered at Police Station Kathgarh, District SBS Nagar.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 03.03.2023 and the charges qua the co-accused were framed on 01.02.2023 and thereafter the name of the petitioner was nominated under Section 29 of the NDPS Act. He submitted that so far as the present petitioner is concerned, his name has been nominated purely on the basis of disclosure statement of a co-accused on the ground that on the asking of the petitioner that the co-accused had purchased 70 injections of Buprenorphine containing 2 ml. each which was confiscated from the co-accused. He submitted that the investigation qua the petitioner has already been completed and challan has been presented qua the petitioner and it is a

settled law that the disclosure statement of a co-accused is not admissible in evidence per se unless it is corroborated by any other evidence and has also referred to a judgment of Hon'ble Supreme Court in *Tofan Singh V/s. State of Tamil Nadu' [2021 (1) RCR (Criminal) 1]*. He also submitted that even otherwise also the alleged recovery from the co-accused was 70 injections of Buprenorphine and it is yet to be ascertained that prima facie whether those injections were to be used for medical purposes for himself or not and has also referred to another judgment of this Court in *Sukhwinder Singh @ Vicky Vs. State of Punjab, 2021(1) R.C.R.(Criminal) 177* and referred Rule 66(2) of NDPS Rules in this regard.

3. On the other hand, Mr. Rajiv Verma, DAG, Punjab has submitted that it is correct that the petitioner is in custody from 03.03.2023 and challan qua him has already been presented. The name of the petitioner was nominated on the basis of disclosure statement of a co-accused. He has however opposed the grant of bail on the ground that the petitioner is involved in as many as six more cases.

4. I have heard the learned counsel for the parties.

5. The petitioner is in custody from 03.03.2023 and the allegations were pertaining to confiscation of 70 injections of Buprenorphine and 70 injections of avil from the co-accused. However, the injections of avil do not fall under the purview of NDPS Act. In the present case, there was no recovery effected from the petitioner as per the learned counsel for the parties.

6. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the

satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

20.07.2023

rakesh

(JASGURPREET SINGH PURI)

JUDGE

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