

2023:PHHC: 143743

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110+219

CRM-M-34033-2023 (O&M)
Date of decision: 09.11.2023

Gurdeep Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Vikram Jeet Singh, Advocate for the petitioner.

Ms. Ambika Sood, Addl. A.G. Haryana.

VIKAS SURI, J.

CRM-29891-2023

This is an application for placing on record disclosure statements of co-accused as Annexures P-3 to P-6 and for exemption from filing certified copy thereof.

Notice of the application.

Ms. Ambika Sood, Addl. A.G. Haryana, accepts notice on behalf of respondent-State. Another copy of the application furnished to her in Court.

For the reasons mentioned in the application, the same is allowed. Annexures P-3 to P-6 are taken on record, subject to all just exceptions.

CRM stands disposed of.

CRM-M-34033-2023

1. This petition has been filed under Section 439 Cr.P.C. for

grant of regular bail to the petitioner in case FIR No.54 dated 22.03.2022, under Section 15 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Sections 27-A and 29 of NDPS Act added later on), registered at Police Station Rajound, District Kaithal.

2. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case on the basis of second disclosure statement of his co-accused. It is further submitted that the prime accused Sadik @ Chhotu has already been granted the concession of bail on 25.11.2022. The petitioner is first time offender. No recovery has been effected from him, hence rigors of Section 37 of NDPS Act are not attracted. The petitioner is behind bars since 27.02.2023. It is submitted that further incarceration of petitioner would not serve any useful purpose; the investigation complete; challan stands presented; charges have been framed and out of 17 prosecution witnesses cited, none of them have been examined so far. Therefore, the present petition deserves to be accepted.

3. In support of his submissions, counsel for the petitioner relies upon the ratio in ***Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1*** and order dated 27.07.2023 passed by coordinate Bench of this Court in CRM-M-19189-2023, titled ***Gurmeet Singh alias Meet vs. State of Punjab***, wherein also the petitioner was implicated on the basis of disclosure statement and no recovery had been effected from him.

4. *Per contra*, learned State counsel has filed the custody certificate dated 18.09.2023 in Court today, which is taken on record.

5. Learned State counsel opposes the bail and submits that petitioner has dealings with the prime accused Sadik @ Chhotu who hails from Madhya Pradesh. However, the factual aspects of the case are not in dispute. On the basis of custody certificate, it is submitted that the petitioner is not involved in any other FIR.

6. Heard learned counsel for the parties.

7. Keeping in view the fact that the prime accused Sadik @ Chhotu already stands enlarged on bail; petitioner has clean antecedents and he is in custody since 27.02.2023; investigation is complete; no recovery has been effected from the petitioner; challan stands presented; charges have been framed; out of 17 prosecution witness, none of them have been examined so far, this petition deserves acceptance.

8. Accordingly, the instant petition is allowed and the petitioner is ordered to be released on regular bail, if not required in any other case, on furnishing personal-bond and surety to the satisfaction of the concerned Jurisdictional Magistrate/Trial Court/Duty Magistrate.

9. It is made clear that the petitioner shall not influence the trial or prosecution witnesses in any manner directly or indirectly.

10. However, any observation made herein-above shall not be construed as an expression of opinion on the merits of the case.

November 09, 2023
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No

Whether Reportable : Yes / No