

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

CRM-M-37589-2023

Date of decision : 08.08.2023

AKSHIT MAHALA ALIAS AKHSHIT ALIAS AKSHT

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jaspreet S. Brar, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.29, dated 25.02.2023 registered for the offence punishable under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (offence under Section 29 of the NDPS Act added later on vide DDR No.21, dated 27.02.2023) at Police Station Tappa Mandi, District Barnala.

2. Custody Certificate of the petitioner has been produced. The same is taken on record.

3. Counsel for the petitioner submits that the petitioner was nominated merely on the basis of disclosure statement made by co-accused Chaina Ram and Mukesh Kumar after recovery was made from the person of Chaina Ram. Counsel submits that the petitioner is behind bars since

11th of May, 2023. He has no criminal antecedents and nothing has been recovered from him. There is no incriminating evidence against the petitioner apart from the disclosure made by the co-accused which cannot be relied upon by the prosecution in view of law laid down by the Apex Court in **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1**.

4. State Counsel submits that there is a heavy recovery of 2 kg 600 grams of the opium from the co-accused. However he does not dispute that neither any recovery has been made from the petitioner nor the petitioner has any criminal antecedents.

5. In view of above, without commenting on the merits of the case and keeping in view the law laid down by the Apex Court in **Tofan Singh's case** (supra) coupled with the fact that petitioner has no criminal antecedents, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

6. However in order to ensure that the petitioner does not repeat the misadventure of abusing the concession of bail, he shall be bound by the following conditions in addition to the conditions that may be imposed by the Trial Court :

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence similar to the

one alleged in the present case.

- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

7. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 08, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No