

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

CRM-M-37897-2023

Date of decision : 10.08.2023

Joginder

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Indu Bala, Advocate for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

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.1164, dated 04.12.2022 registered for the offences punishable under Sections 22C, 27A of Narcotic Drugs and Psychotropic Substances, 1985 at Police Station Barwala, District Hisar.

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

3. Counsel for the petitioner relies upon the order dated 25th of July, 2023 passed by this Court in CRM-M No.34586 of 2023 placed on record at Annexure P-3 whereby co-accused Gurmeet Singh stands admitted to bail observing as under :

“Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.1164 dated 04.12.2022, registered for offences under Sections 22C and 27A of NDPS Act at Police Station Barwala, District Hisar.

2. Counsel for the petitioner submits that no recovery has been effected from the petitioner as he was nominated on the basis of disclosure statement made by co-accused, namely, Mukesh son of Bhura Singh. There is no other criminal antecedents of the petitioner having been involved in an offence punishable under NDPS Act. The petitioner has undergone incarceration of more than 03 months and 11 days. Challan already stands presented and thus there cannot be any apprehension that the petitioner shall tamper with the evidence. He further relies on law laid down in Tofan Singh vs. State of Tamil Nadu reported as (2021) 4 SCC 1.

3. State counsel does not dispute the aforesaid factual assertion made on the basis of record.

4. In view of above, present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

5. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.”

4. She further submits that the petitioner has falsely roped in the present case. Petitioner was nominated on the basis of disclosure made by co-accused namely Mukesh son of Bhoora Singh who was apprehended along with the contraband. Counsel further submits that the petitioner is in custody for more than 3 months and 19 days and has no criminal antecedents.

5. State Counsel does not dispute the afore-stated factual assertions based on record.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner, 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. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (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.

8. 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.

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

August 10, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No