

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

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CRM-M-39017-2023

Decided on : 23.08.2023

Yogesh Aggarwal

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Ajay Kadyan, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No. 441 dated 16.09.2022 registered under Section 22(C) of the NDPS Act, 1985 at Police Station Saran, District Faridabad.

2. Learned counsel for the petitioner argues that in the present FIR, the petitioner was not named in the FIR and has only been roped in on the basis of the disclosure statement of the co-accused namely Kanhaiya. Learned counsel submits that even the contraband which has been recovered, is recovered from the co-accused Kanhaiya and no drug violating the provisions of NDPS Act has been recovered from the petitioner. Learned counsel submits that as of now, the only evidence which has come on record is the disclosure statement of Kanhaiya as well as the disclosure statement of the petitioner which was obtained during the police custody of the petitioner, which is not admissible as an evidence.

3. Learned counsel further submits that the petitioner is behind bars for the last 11 months and keeping in view the status of the trial that none of the cited 17 witnesses have been examined, the petitioner may kindly be extended the benefit of regular bail keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in Criminal Appeal No. 152 of 2013 titled as Tofan Singh Vs. State of Tamil Nadu, decided on 29.10.2020.

4. Notice of motion.

5. Mr. Saurabh Mohunta, DAG, Haryana, who is present in the Court, accepts notice on behalf of respondent-State.

6. Learned State counsel does not dispute the fact that the petitioner has been involved in the present FIR only on the basis of the disclosure statement of the co-accused Kanhaiya and no recovery of any contraband has been done from the petitioner as well as the fact that out of 17 cited witnesses, none has been examined so far.

7. I have heard learned State counsel and have gone through the record with his able assistance.

8. From the facts which have been brought to the notice of this Court, once no contraband has been recovered from the petitioner and he has been roped in the present FIR only on the basis of the disclosure statement of co-accused Kanhaiya, which statement is yet to be proved during the trial. Keeping in view the fact that no recovery of any contraband has been done from the petitioner and as the trial in respect of the present FIR is likely to take some time before it concludes as none of the cited 17 witnesses have been examined so far, no useful purpose will be served in keeping the petitioner behind the bars during the entire period of trial.

9. Learned counsel for the petitioner undertakes before this Court that in case the petitioner is granted the concession of regular bail, he will not influence the trial or the witnesses in any manner.
10. Keeping in view the above stated facts coupled with settled principle of law by the Hon’ble Supreme Court of India in Tofan Singh’s case (supra) and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.
11. Petitioner is directed to not to influence the trial or the witnesses in any manner and in case of default of the above direction, State will be at liberty to approach this Court for passing appropriate orders.
12. However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

(HARSIMRAN SINGH SETHI)
JUDGE

23.08.2023
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No