

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CRM-M-42695-2022**

**Date of Decision:-30.01.2023**

**Bohar Singh.**

.....Petitioner.

Versus

**State of Punjab.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. K.B. Raheja, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

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**JASJIT SINGH BEDI, J. (ORAL)**

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.84 dated 16.07.2022 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Offence under Section 29 of NDPS Act, 1985 added later on registered at Police Station Cantt., Ferozepur, District Ferozepur.

2. The brief facts of the case are that while the police party was on patrolling duty a Tempo (*Chhota Hathi*) bearing registration No.PB-04AD-8840 in which two persons were sitting was signalled to stop for checking. The driver of the tempo attempted to turn around but on suspicion the tempo was stopped and the persons sitting therein were asked their names and addresses. The driver disclosed his name as Raju son of Roop Singh and the person who was sitting on the cleaner side disclosed his name as Jagjit

Ram. On checking the dashboard of the *chhota haathi* (tempo) 265 grams of heroin contained in a plastic envelope came to be recovered.

After the arrest of the two accused, their disclosure statements were recorded as per which the contraband was purchased from the present petitioner. Accordingly he was nominated as an accused for the offence under Section 29 of the NDPS Act.

3. The Counsel for the petitioner contends that the petitioner is not named in the FIR but in the disclosure statement of his co-accused. In terms of the judgments of the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu, 2020 AIR (Supreme Court) 5592**, **Rakesh Kumar Singla Vs. Union of India 2021(1) RCR (Criminal) 704**, **State by (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta &Anr. 2022(1) RCR (Criminal) 762**, **Surinder Kumar Khanna Vs. Intelligence Officer, Director of Revenue Intelligence, 2018(3) RCR (Criminal) 954** and **Sanjeev Chandra Aggarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590** the said disclosure statement is inadmissible in evidence qua the Petitioner. The police officials who conducted search and seizure were themselves accused in FIR No.90 under Sections 166, 195, 478, 218, 120-B IPC, 21/59 of NDPS Act and 13 of PC Act P.S. Cantt. Ferozepur, District Ferozepur (Annexure P-2) and FIR No.99 dated 01.08.2022 under Section 22 of the NDPS Act P.S. Kulgari, District Ferozepur. Even otherwise, the recovery was of 265 grams of Heroin which was marginally above the commercial quantity of 250 grams. Since the petitioner was in custody since 16.07.2022 and only 01 out of 14 prosecution witnesses had been examined, the further incarceration of the petitioner was not required more so when his co-accused Jagjit Ram had been granted the concession of

bail by this Court vide order dated 12.01.2023.

4. The Counsel for the State on the other hand contends that the petitioner was named in the disclosure statement of his co-accused. Two other FIRs under the NDPS Act stands registered against him. In FIR No.73 dated 2.8.2017 the petitioner stands acquitted vide judgment dated 06.01.2022 and in FIR No.170 dated 5.7.2017 where the recovery was of 5 Grams of Heroin, the sentence of the petitioner was reduced to the period of imprisonment already undergone by him. He contends that the antecedents of the petitioner did not entitle him to the grant of bail. He however, does not dispute the fact that only 01 witness out of 14 cited witnesses had been examined, the recovery is marginally above the commercial quantity and co-accused Jagjit Ram has been granted the concession of regular bail.

5. I have heard learned Counsel for the parties.

6. Admittedly, the recovery in the present case is from the co-accused of the petitioner, who has been granted the concession of regular bail. The petitioner has been named in the disclosure statement. The evidentiary value of the said statement would be adjudicated upon during the course of trial. The petitioner is in custody since 16.7.2022 and only 01 out of 14 cited prosecution witnesses had been examined so far. In the other case registered against him the recovery was of 5 grams of Heroin and he has been sentenced to the period of imprisonment already undergone by him. In view of the these circumstances, the further incarceration of the petitioner is not required.

7. Thus, without commenting on the merits of the case, the petitioner-**Bohar Singh** son of Sh. Piara Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner (or any person on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.

Petition stands disposed of.

( JASJIT SINGH BEDI )  
JUDGE

January 30, 2023  
Vinay

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |