

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

**CRM-M No.40519 of 2023 (O&M)
Date of decision : 19.10.2023**

Yakub Khan

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana

PANKAJ JAIN, J. (ORAL)

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.305 dated 21.10.2022 registered under Sections 21 (C)/29 of NDPS Act at Police Station Ding, District Sirsa, Haryana.

2 Custody certificate has been filed. The same is taken on record.

3 Learned counsel for the petitioner submits that total 1 kg of heroin i.e. 500 grams each was recovered from co-accused namely Gulam Nabi @ Gami and Sadaam. It is on their disclosure that the present petitioner has been nominated resorting to Section 29 of the NDPS Act. The petitioner is behind bars since 16.11.2022 and despite more than 11 months having been passed since then, even the FSL report is awaited as is evident from the order dated 09.10.2023 passed by the Trial Court, which reads as under :-

“Today, the case is fixed for presence of accused. To come upon 04.11.2023 for awaiting FSL report.”

4 Further reliance is being placed upon law laid down by Apex Court in the case of ***Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1*** to submit that the confessional statements made in police custody are hit by provisions of Evidence Act and are not admissible in evidence.

5 Learned State counsel does not dispute that the petitioner has been nominated on the basis of disclosure and apart from the said disclosure, there is no other incriminating evidence against the petitioner. The petitioner has clean antecedents.

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

7 Without commenting on the merits of the case and considering the incarceration suffered by the petitioner and the other mitigating circumstances, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. 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 while on bail.*
- (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 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

19.10.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No