

CRM-M-48326 of 2022

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

CRM-M-48326 of 2022
Date of decision: 16.02.2023

Naib Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. M.S. Bhullar, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.68 dated 11.06.2022 under Sections 22(C), 15(b), 18(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and later on added Section 29 of the NDPS Act, registered at Police Station Kotkapura, District Faridkot.

According to the prosecution, on 11.06.2022, the police apprehended co-accused, namely Ram Kumar Singh and Jagjit Singh, on suspicion and the police recovered 01 kilogram opium; 25 kilograms poppy husk and 3100 strips containing total 31,000 tablets, labeled as NRx Tramadol Hydrochloride tablets 100 mg. Clobedol-100 SR tablets with batch no. ALT2005 carried by these co-accused in a vehicle. Both the accused were formally arrested after registration of a case and during

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investigation, accused Jagjit Singh disclosed that few days back, he had supplied 20 boxes of intoxicant tablets, labeled Tramadol, and around 25 kilograms poppy husk to petitioner-Naib Singh for sale. On the basis of such disclosure, the petitioner was nominated in this case and the offence under Section 29 of the NDPS Act was enhanced. The petitioner was arrested on 14.06.2022 and the police further recovered 05 kilograms poppy husk from him.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He further submits that petitioner is 70% physically disabled person; unable to walk properly and even cannot drive any vehicle. He has been indicted in the present case on the basis of disclosure statement of co-accused Jagjit Singh, who was apprehended with co-accused Ram Kumar at the spot and recovery of huge contraband was effected from their vehicle. He submits that disclosure statement has no evidentiary value. He further submits that petitioner has no connection with the co-accused arrested at the spot. Learned counsel further submits that confessional statement recorded under Section 67 of the NDPS Act is inadmissible in view of the law laid down by the Hon'ble Supreme Court in ***Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1***. The alleged recovery effected from the petitioner falls under the category of 'non-commercial' quantity. Learned counsel further submits that investigation in the present case is complete; challan has been presented in Court. He submits that petitioner is in custody since 14.06.2022. He is not involved in any other case. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

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Per contra, learned State counsel while placing on record custody certificate of the petitioner, on the basis of status report dated 10.12.2022 opposes the prayer for grant of regular bail to the petitioner and submits that recovery effected from the co-accused is commercial in nature.

I have heard learned counsel for the parties and perused the record.

Keeping in view the medical condition of the petitioner and further custody period, which is about eight months and five days; investigation is complete; challan has been presented; the alleged recovery falls under the category of 'non-commercial' quantity; petitioner is not involved in any other case and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

16.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No