

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

216

**CRM-M- 44520 of 2023
Date of Decision:13.09.2023**

Raju Kumar

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikas Bishnoi Godara, Advocate,
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.98 dated 15.03.2023, under Sections 15C and 27A of the NDPS Act, registered at Police Station Sadar Hansi, District Hisar.

2. It is submitted by learned counsel for the petitioner that the petitioner is in custody from the last five months and the investigation of the case has already been completed and thereafter final report under Section 173 of the Code of Criminal Procedure has been presented to the competent Court. He submitted that the name of the petitioner has been nominated on the basis of disclosure statements of the three co-accused who were apprehended at the spot. He submitted that the three co-accused were apprehended at the spot from whom there was an alleged

recovery of total 85 kgs. of poppy husk. He submitted that the petitioner is not involved in any other case under the NDPS Act and so far as the person who was apprehended from the spot, namely, Prem Kumar who has already been extended the benefit of regular bail by this Court on 18.08.2023 in CRM-M-39397 of 2023. He has further submitted that so far as the present petitioner is concerned except for the disclosure statement of the co-accused, there is no substantial material available with the prosecution to connect the petitioner with the present offence and has also referred to the judgment of the Supreme Court in **Tofan Singh versus State of Tamil Nadu 2021 (1) RCR (Criminal) 1** to contend that mere disclosure statement of the co-accused is not admissible in evidence and it can become a good ground for grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, learned DAG, Haryana has stated that it is correct that the petitioner has already faced incarceration for about five months and the name of the petitioner was nominated on the basis of disclosure statement of the co-accused and one other co-accused who was apprehended from the spot, namely, Prem Kumar has already been extended the benefit of regular bail by this Court vide Annexure P-3. He submitted that so far as the antecedents of the present petitioner is concerned, he is not involved in any other case under the NDPS Act.

4. I have heard learned counsel for the parties.

5. It is a case where the petitioner has already faced incarceration for four five months and as per learned counsel for the parties, the petitioner was not apprehended from the spot and his name had surfaced on the basis of disclosure statement of the co-accused later on and one of the three co-accused who were

apprehended from the spot, namely, Prem Kumar, there was an alleged recovery of 30 kgs. of poppy husk, has already been admitted to regular bail by this Court vide Annexures P-3. The reliance made by learned counsel for the petitioner on the judgment of the Hon'ble Supreme Court in *Tofan Singh's* case (supra) is well placed. Therefore, so far as the present petitioner is concerned, the bar contained under Section 37 of the NDPS Act will not apply to the present petition.

6. Apart from the aforesaid position, it is not the case of learned State counsel that in case the petitioner is released on bail, then he may abscond from justice or may repeat the offence.

7. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

September 13, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No