

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-48320 of 2022 (O&M)

Date of Decision:22.08.2023

Nishan Singh @ Pilla

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Malkiat Singh Hundal, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab

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.156 dated 14.07.2022, under Sections 21-C and 29 of the NDPS Act, registered at Police Station STF, SAS Nagar, Mohali.

2. It is submitted by learned counsel for the petitioner that the petitioner is in custody for about one year and one month and he is not involved in any other case and has clean antecedents. He submitted that the investigation of the present case has already been completed and the 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 was nominated on the basis of the disclosure statement of the co-accused, namely, Rahul from whom there was an alleged

recovery of 325 grams of heroin. He submitted that apart from the disclosure statement of a co-accused there is no other material available with the police to connect the petitioner with the present offence and so far as the disclosure statement of a co-accused is concerned, it is *per se* not admissible in evidence. He also referred to a judgment of the Hon'ble Supreme Court in ***Tofan Singh V/s. State of Tamil Nadu' [2021 (1) RCR (Criminal) 1]*** in this regard. He submitted that considering the antecedents of the petitioner wherein he is not having any kind of criminal background whatsoever, he may be considered for the grant of regular bail. He further submitted that one of the other co-accused, namely, Anoop Singh @ Anoop has been extended the benefit of regular bail by this Court vide CRM-M-30043 of 2023 on 05.07.2023 and so far as the present petitioner is concerned, he is at a much better footing as compared to the aforesaid co-accused.

3. On the other hand, Mr. Ramdeep Partap Singh, learned Sr. DAG, Punjab has stated that it is correct that the petitioner has already faced incarceration for about 1 year and 1 month and he is not involved in any other case and his name was nominated on the basis of disclosure statement of a co-accused. He has however submitted that since the recovery from the other co-accused was 325 grams of heroin, the petitioner does not deserve the concession of regular bail.

4. I have heard the learned learned counsel for the parties.

5. The petitioner is stated to be in custody for about one year and one month and there was no recovery effected from the petitioner even as per the learned counsel for the parties. The name of the petitioner was nominated on the basis of disclosure statement of a co-accused and on a specific query being raised

to learned State counsel as to whether any other sufficient material was available to connect the petitioner with the present offence except for the disclosure statement of the co-accused, he did not state anything. The petitioner is not involved in any other case and has clean antecedents. The other co-accused, namely, Anoop Singh @ Anoop has already been extended the benefit of regular bail by this Court and the petitioner is rather at better footing as compared to the aforesaid co-accused.

6. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant bail to the petitioner.

7. 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 meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

August 22, 2023

rakesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No