

228 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45822-2023
Date of decision : 30.11.2023

JOGINDER SINGHPetitioner

Versus

STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Laghuinder S. Sekhon, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.437 dated 08.09.2019 registered for the offences punishable under Sections 20 and 31 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Tohana, District Fatehabad.

2. Custody Certificate of the petitioner dated 20.11.2023 has been filed today in Court. The same is taken on record.

3. FIR was registered on the basis of secret information to the effect that present petitioner and his son namely Kuldeep Singh and Sukhwinder Singh @ Sukhi are indulging in selling *ganja* in the city of Tohana and are operating from an old house belonging to the mother of one

Virender Jain which they taken on rent. Police party is stated to have raided the said house leading to recovery of 66 kgs. of *ganja*.

4. Counsel for the petitioner submits that apart from the statement made by Virender Jain to the effect that the house was given by him to Kuldeep Singh @ Bittu son of Joginder Singh on rent for putting junk material at monthly rent of Rs.3000/- on 28th of September, 2019 there is nothing to link the present petitioner with the alleged contraband. He submits that there is no written note or deal and even if the statement of said Virender Jain is taken to be correct the same may be read against Kuldeep Singh @ Bittu.

5. Per contra, State Counsel has opposed the bail plea submitting that the petitioner has criminal antecedents. He is involved in 20 more cases which include 6 under the NDPS Act. However, he does not dispute the fact that apart from the statement made by Vijender Jain to the effect that the house from where the contraband was recovered was in possession of Kuldeep Singh @ Bittu son of the present petitioner on rent and the disclosure made by Kuldeep Singh @ Bittu, there is no other incriminating evidence against the petitioner in the present case.

6. Disclosure of co-accused i.e. Kuldeep Singh @ Bittu cannot be read against the petitioner in view of law laid down by the Apex Court in **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1** and cannot be the solitary basis to implicate the petitioner.

7. I have heard counsel for the parties and have gone through

records of the case.

8. In view of above, without commenting on the merits of the case, keeping in view the allegations levelled against the petitioner, the nature of evidence collected against him and in the light of incarceration already suffered by him i.e. for last more than 1 year 7 months and 18 days, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. 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 cellphone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

10. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.
11. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

November 30, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No