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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47511-2023
Date of decision: 08.12.2023

AMARDEEP

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sushil Sheoran, Advocate
for the petitioner.

Mr. Vijesh Sharma, Addl. A.G., 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.21 dated 14.01.2023, under Sections 21(c) and 27A of the NDPS Act, registered at Police Station Adampur, District Hisar, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for about 10 months and 10 days and the allegations in the present case pertain to recovery of 500 grams of *heroin* from one co-accused, namely, Ravinder @ Bhola, who is stated to be the cousin brother of the petitioner. He further submitted that the name of the petitioner has cropped up only on the basis of disclosure statement of aforesaid co-accused and the disclosure statement has been so annexed with the reply filed by the respondent-State. A

perusal of the aforesaid disclosure statement would show that the same is a fabricated document. He also submitted that the aforesaid disclosure statement is purported to be made by the main accused-Ravinder @ Bhola, wherein he repeatedly stated that he himself, his father-Krishan Kumar, his brother-Ravinder @ Bhola and his cousin brother-Amardeep @ Pawan (petitioner) are doing the business of smuggling of *heroin* and therefore, no credibility can be placed upon the aforesaid disclosure statement, which is on the face of it having discrepancies. He further submitted that since the name of the petitioner was nominated only on the basis of disclosure statement of the aforesaid co-accused, the same is not admissible in evidence *per se* in view of the judgement of the Hon'ble Supreme Court in **Tofan Singh versus State of Tamil Nadu, 2021 (4) SCC 1** and therefore, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Vijesh Sharma, Addl. A.G., Haryana submitted that it is correct that the petitioner is in custody for about 10 months and 10 days and his name has cropped up only on the basis of disclosure statement of co-accused, namely, Ravinder @ Bhola, but he is involved in one more case under the NDPS Act.

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

5. The petitioner is in custody for about 10 months and 10 days and he is stated to be involved in one more case under the NDPS Act. The name of the petitioner has been nominated purely on the basis of disclosure statement of aforesaid co-accused, namely, Ravinder @ Bhola, who is stated to be his cousin brother. A perusal of the aforesaid disclosure statement as attached with the

reply filed by the respondent-State as Annexure R-2 would show that the statement is purported to be made by aforesaid Ravinder @ Bhola by stating that he himself, his father-Krishan Kumar, his brother-Ravinder @ Bhola and his cousin brother-Amardeep @ Pawan (petitioner) are doing the business of smuggling of *heroin* and this fact has been repeated by him.

6. Therefore, considering the aforesaid totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner since the bar contained under Section 37 of the NDPS Act will not apply to the present 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 bonds 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 the merits of the case and is meant for the purpose of deciding the present petition only.

08.12.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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