

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

210

CRM-M-49573 of 2022

Date of Decision:04.08.2023

Pala Ram

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S. S. Gill, Advocate, for
Mr. Jangjit Singh Dahiya, Advocaes,
for the petitioner.

Ms. Harpreet Kaur, AAG, 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.163 dated 09.04.2022, under Sections 20, 27A, 29-61-85 of the NDPS Act and Section 201 IPC, registered at Police Station Sadar Jind, District Jind.

2. It is submitted by learned counsel for the petitioner that the petitioner is in custody for one year and two months. He submitted that the police has completed the investigation and the final report under Section 173 of the Code of Criminal Procedure has already been presented to the competent Court. He submitted that as per the allegations, the police apprehended two persons, namely, Pawan @ Pona and Pardeep @ Tinku from whom alleged recovery was effected and thereafter on the basis of the disclosure statements of the aforesaid two accused, the name of the petitioner was nominated. He submitted that thereafter

allegedly on the basis of the disclosure statement suffered by the present petitioner, the name of the other co-accused, namely, Davinder Singh was nominated. He submitted that the aforesaid co-accused Devender Singh has already been extended the benefit of regular bail by this Court in CRM-M-32477 of 2023 on 14.07.2023 by which reliance was made to the judgment of the Supreme Court in **Tofan Singh versus State of Tamil Nadu 2021 (1) RCR (Criminal) 1**. He submitted that so far as the present petitioner is concerned, he was nominated on the disclosure statements of the aforesaid two co-accused and there is no sufficient material available with the prosecution to connect the petitioner with the offence except for the disclosure statement of the co-accused which is not admissible in evidence *per se* in view of the ratio laid down in ***Tofan Singh's*** case (supra). He also submitted that the aforesaid two co-accused from whom alleged recovery was effected have also been enlarged to bail although on default bail. He further submitted that the petitioner has been falsely implicated in the present case only because earlier he was involved in two cases of NDPS Act and two cases under the Excise Act.

3. On the other hand, Ms. Harpreet Kaur, learned AAG, Haryana has stated that it is correct that the petitioner has already faced incarceration for about one year and two months and it is also correct that the name of the petitioner was nominated on the basis of disclosure statement of the aforesaid two co-accused who have also been extended the benefit of regular bail although on default bail. She also submitted that it is also correct that the other co-accused who was also on the disclosure statement of the present petitioner, has also been admitted to bail by this Court.

4. I have heard learned counsel for the parties.

5. It is a case where the petitioner has already faced incarceration for about one year and two months and the investigation of the case has been completed and the final report under Section 173 of the Code of Criminal Procedure has been presented to the competent Court. All the other co-accused have been extended the benefit of regular bail although the aforesaid two co-accused from whom the alleged recovery was effected, on default bail. A query was raised to learned State counsel as to whether there is any other sufficient material available with the prosecution to connect the petitioner with the present offence except for the disclosure statements of the co-accused to which she could not explain the same. Furthermore, 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.

6. 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.

7. 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

August 04, 2023

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