

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

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Sr. No.208

Case No. : CRM-M-50623-2022

Date of Decision : March 15, 2023

Pappu Singh Petitioner

vs.

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Lupil Gupta, Advocate
for the petitioner.

Mr. Jaiteshwar S. Bhandari, AAG, Punjab.

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GURBIR SINGH, J. :

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.87 dated 05.07.2022, under Sections 22, 29, 61, 85 of the NDPS Act, 1985, registered at Police Station Badhni Kalan, District Moga.

Pursuant to the order dated 30.01.2023 passed by this Court, Status Report by way of affidavit of Manjit Singh, PPS, Deputy Superintendent of Police, Sub Division Nihal Singh Wala, District Moga, has been filed in Court today, which is ordered to be taken on record.

Learned counsel for the petitioner has submitted that no recovery has been effected from the petitioner. He was named by the co-accused with the allegation that he had brought the recovered contraband from the petitioner. The petitioner has been falsely implicated.

Learned counsel has further submitted that any confession made by a co-accused in custody is inadmissible in view of the law laid down by Hon'ble Supreme Court in Toofan Singh vs. State of Tamil Nadu – Criminal Appeal No.152 of 2013, decided on 29.10.2020, wherein it is held that disclosure statement made by a co-accused is not admissible in evidence against another co-accused in terms of Section 67 of the NDPS Act.

In support of his contentions, learned counsel for the petitioner has submitted that the case of the petitioner is squarely covered by the decisions in Mandeep Singh @ Meeta vs. State of Haryana, decided by this Court on 15.06.2020 in CRM-M-13681-2020 (O&M), Buta Singh vs. State of Punjab, decided on 30.01.2020 in CRM-M-31559-2019 and Narotam Pradhan vs. State of NCT of Delhi – Bail Application No.2292 of 2018, decided on 18.01.2019. He has further submitted that the petitioner is in custody since 05.07.2022. The completion of trial is likely to take a long time. Therefore, he be granted concession of regular bail.

On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioner and has submitted that the co-accused made a statement that he had fetched the contraband from the petitioner. So, the petitioner was arrested and Section 29 of the NDPS Act was added in the case.

Learned State counsel further apprised this Court that another case bearing FIR No.50 dated 21.07.2021 under Section 61/1/14 of Excise Act already stands registered against the petitioner.

Heard.

As per version of the prosecution, on 05.07.2022, a police party was going for patrolling and checking. One person was standing carrying a transparent polythene bag in his hand. On seeing police party, he got perplexed and tried to slip away by throwing aside his transparent polythene bag on the ground. He was apprehended. He disclosed his name as Chhinderpal Singh alias Simri. Polythene bag thrown by him was containing 10 strips of intoxicant tablets of Etizolam 0.5 salt, each strip having 10 tablets, with average weight of 137 mgs. per tablet. In total, 100 tablets were recovered and weight of these recovered tablets came out to be 13.7 grams. During interrogation, Chhinderpal Singh alias Simri made a statement that he had brought these tablets from the petitioner.

On asking, learned State counsel has fairly conceded that the petitioner is in custody since 05.07.2022; challan has already been presented; no recovery was effected from the present petitioner and there is no other evidence against the petitioner except the statement made by the co-accused before the police while in custody, on the basis of which, the petitioner has been nominated in this case and was arrested.

In view of the submissions made by counsel for both sides and considering the fact that the completion of trial may take a long time and also in view of the law laid down by Hon'ble Supreme Court in **Toofan Singh (supra)** to the effect that disclosure statement made by a co-accused is not admissible in evidence against another co-accused in terms of Section 67 of the NDPS Act, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on

learned Trial Court/Duty Judge, Moga.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

March 15, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>