

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CRM-M-55744-2022**

**Date of Decision:-21.02.2023**

**Khuspreet Singh.**

.....Petitioner.

Versus

**State of Punjab.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Yashpal Thakur, Advocate for the Petitioner.

Mr. Shubham Kaushik, Assistant Advocate General,  
Punjab.

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**JASJIT SINGH BEDI, J. (ORAL)**

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0119 dated 04.08.2022 under Sections 15-C (Section 25 & 29 added later on) NDPS Act registered at Police Station Sirhind, District Fatehgarh Sahib, Punjab.

2. The brief facts of the case are that while the police party was on patrolling duty a secret information was received that Lakhdeep Singh and Mandeep Singh were working as drivers on trucks and used to bring Poppy Husk from other states for selling in Punjab. The would be coming on their truck bearing registration no.PB-10HT-1382 with Poppy Husk and if a naka was installed they could be apprehended with the contraband.

Based on the aforesaid information the truck was stopped and the accused were apprehended. A recovery of 80 Kgs of Poppy Husk was

effected from the truck.

Based on the statement of Lakhdeep Singh, the petitioner who is the real brother and owner of the truck was nominated as an accused.

3. The Counsel for the petitioner contends that no recovery was effected from the petitioner pursuant to his arrest. The disclosure statement of his co-accused, even though it was his brother, has no evidentiary value in the eyes of law. Since he was in custody since 4.8.2022 and only 03 out of the 13 prosecution witnesses had been examined, therefore, the Trial of the present case was not likely to be concluded anytime soon and the petitioner was entitled to the grant of bail more so when he has clean antecedents.

4. The learned State counsel on the other hand contends that the petitioner was the owner of the truck from which the recovery was effected and also the brother of the arrested accused Lakhdeep Singh. Therefore, even though no recovery was effected from the petitioner, he was not entitled to the grant of bail. He however, admits that the petitioner is a first time offender, in custody since 4.8.2022 and only 03 out of 13 prosecution witnesses have been examined so far.

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

6. The Hon'ble Supreme Court in **State of Haryana Vs. Samarth Kumar** 2022(3) RCR (Criminal) 991 has held as under:-

*“ 4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in Tofan Singh v. State of Tamil Nadu reported in (2021) 4 SCC 1.*

5. *But, it is contended by the learned Additional Advocate*

*General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.*

6. *Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.*

7. *The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.*

8. ***In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh v. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.***

9. ***To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.***

10. *In view of the above, the appeals are allowed. The impugned orders are set-aside. As a consequence, the Appellant-State is entitled to take steps, in accordance with law.*

7. A perusal of the aforementioned judgment would show that where an accused has been named in a disclosure statement, but no recovery has been effected from him, his case can be considered for the grant of regular bail.

8. In the present case, admittedly the petitioner is named in the disclosure statement of the co-accused. No recovery has been effected from him. He is in custody since 4.8.2022 and 03 out of 13 prosecution witnesses

have been examined so far. Therefore, the Trial of the present case is not likely to be concluded any time soon. As such the further incarceration of the petitioner is not required.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Khuspreet Singh** son of Sh. Santokh Singh is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present one.

11. In addition, the petitioner shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

12. The petition stands disposed of.

( JASJIT SINGH BEDI )  
JUDGE

February 21, 2023  
Vinay

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |