

CRM-M-56591 of 2022 (O&M)

2023:PHHC:038051

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

CRM-M-56591 of 2022 (O&M)

Date of decision: 13.03.2023

Satnam Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. K.S. Sidhu, Advocate, for the petitioner.
Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-10077 of 2023

This application has been filed by the applicant-petitioner under Section 482 Cr.P.C. for placing on record the translated copy of challan under Section 173(2) Cr.P.C. dated 28.07.2022 as Annexure P-3 and seeking exemption from filing certified copy of Annexure P-3.

In view of the averments made in the application, same is allowed. Annexure P-3 is taken on record subject to all just exceptions.

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This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.57 dated 16.05.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (later on added Section 29 of the NDPS Act vide GD No.52 dated 16.05.2022), registered at Police Station Lakho Ke Behram, District Ferozepur.

As per prosecution, on the basis of secret information, co-

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accused Jaswinder Singh was apprehended by the police party. At that time, co-accused Jaswinder Singh was carrying a polythene bag of black colour in his hands, who on seeing the police party tried to slip away but was apprehended by the police party. On search of the said polythene bag, 2480 tablets of Clovedol 100 SR (Tramadol) having batch No.CDVT22007 were recovered. During interrogation, co-accused Jaswinder Singh disclosed that he had purchased the recovered intoxicant tablets from petitioner-Satnam Singh. Accordingly, the petitioner was nominated in the present case and offence punishable under Section 29 of the NDPS Act was added vide G.D. No.52 dated 16.05.2022. He was arrested on the same day.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He has been nominated in the present case on the basis of disclosure statement of co-accused Jaswinder Singh, which is not admissible in law. He submits that apart from the said statement there is nothing to link the petitioner with the offence. He further submits that the petitioner is in custody for a period of 09 months and 27 days; challan has been presented; charges have been framed and out of total ten prosecution witnesses none has been examined as yet. He further submits that petitioner is not involved in any other case. Trial may be a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner in jail.

Per contra, learned State counsel while placing on record the custody certificate, submits that since the recovery from the co-accused falls under the category of 'commercial quantity', petitioner is not entitled for regular bail. However, he could not show any other linking evidence connecting the petitioner with the offence except for the disclosure

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statement of co-accused Jaswinder Singh. He also submits that petitioner is in custody for a period of 09 months and 27 days.

I have heard learned counsel for the parties and perused the record.

From the facts mentioned hereinabove, it has emerged that petitioner was nominated as an accused on the basis of disclosure statement of co-accused Jaswinder Singh and except for the disclosure statement, there is no other linking evidence to connect the petitioner with the offence. The said disclosure statement is inadmissible in view of the law laid down by the Hon'ble Supreme Court in *Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1*.

In view of the above and keeping in view the custody of the petitioner, which is 09 months and 27 days; investigation is complete; challan has been presented; charges have been framed and out of 10 witnesses none has been examined as yet; petitioner is not involved in any other case and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

13.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No