

2023:PHHC:143698

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

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**CRM M-55443 of 2023
Date of Decision: 09.11.2023**

Bharat

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Ram Bilas Gupta, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.0244 dated 18.04.2023 registered under Sections 22(C)/61 of the NDPS Act (under Section 29 of NDPS Act added lateron) at Police Station Mujesar, District Faridabad.

2. The FIR in the present case was registered on the basis of the secret information received by the police. In pursuance of the secret information, co-accused Subhash was apprehended by the police and 15 injections were recovered from him. After following the due process of law, Subhash was arrested by the police.

3. Learned counsel for the petitioner contends that the petitioner has not been named in the FIR and has been wrongly arrested by the police on 24.04.2023, on the basis of the disclosure statement suffered by the co-accused. While placing reliance on the judgment of Hon'ble Supreme Court in the matter of **Tofan Singh VS. State of Tamil Nadu, 2021(4) SCC 1**, learned counsel for the petitioner submits that the petitioner cannot be incarcerated for an indefinite period only on the basis of the disclosure statement when the genuineness of the said statement is yet to be adjudicated by the trial Court during the course of the trial. Learned counsel further contends that in the present case, the investigation is complete in all respects and no recovery was effected from the present petitioner. He further contends that similarly placed co-accused Pardeep Kumar and Deepak have already been granted the concession of regular bail by this Court vide order dated 07.11.2023 passed in CRM M-54657 of 2023 and vide order dated 06.11.2023 passed in CRM-M-54363 of 2023 .

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner is a supplier of the contraband and was actively involved with co-accused Subhash.

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

6. It is apparent from the record that the petitioner was not named in the FIR and is in custody since 24.04.2023. Learned State counsel has not been able to refer any other evidence against the present petitioner except the disclosure statement suffered by Subhash, co-accused. Even otherwise, after the arrest of the petitioner, no recovery was effected from him and further incarceration of the petitioner will not be of any useful purpose.

7. From the record, it is evident that the petitioner was arrested in the present case on 24.04.2023 and is in custody for the last more than 06 months. Even otherwise, similarly placed co-accused Pardeep Kumar and Deepak have already been granted the concession of regular bail by this Court vide order dated 07.11.2023 passed in CRM M-54657 of 2023 and vide order dated 06.11.2023 passed in CRM-M-54363 of 2023 .

8. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

09.11.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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