

2023:PHHC:161444

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

215

CRM-M-61861-2023

Date of decision : 15.12.2023

Mohd. Soyab

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Naresh K. Chhokar, Advocate and
Mr. Ram Bhati, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana
with SI Om Prakash.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.505 dated 05.07.2022, registered for the offences punishable under Sections 22(C), 29 and 27-A of NDPS Act, 1985 and Section 201 of IPC, 1860 at Police Station Old Industrial Panipat, District Panipat.

2. Counsel for the petitioner submits that main accused Shankar was apprehended and recovery of 13 ampules of Burenorphine injections IP Leegesic 2 ml. each was made. The said Shankar suffered two even dated disclosures on 06.07.2022. He disclosed the name of Mohd. Hussain to be the source of contraband. Md. Hussain further nominated Vijay Kumar. Vijay Kumar further in his disclosure nominated Nishat and Nishat further nominated the present petitioner.

It has been contended that apart from the aforesaid disclosures there is

2023:PHHC:161444

nothing that connects the present petitioner to the present offence. Mohd. Hussain and Vijay Kumar already stand admitted to bail vide order dated 08.12.2022 passed in **CRM-M-45243-2022 and CRM-M-45330-202**. Relying upon the bail granted to Md. Hussain and Vijay Kumar, Nishat also now stands admitted to bail vide order dated 07.11.2022 passed in **CRM-M-54749-2023**. He thus claims that the petitioner is on much better footing vis-a-vis Md. Hussain and Nishat.

3. Counsel for the State does not dispute the aforesaid factual assertions.

4. Petitioner is behind bars for more than 03 months and 06 days and at present, it is being claimed that apart from the series of disclosure, there is nothing incriminating against the petitioner.

5. Apex Court in **Tofan Singh vs. State of Tamil Nadu** reported as **(2021) 4 SCC 1**, observed as under:-

“xx xx xx

158.2. That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.”

6. Keeping in view the above observations and the fact that the petitioner has already suffered incarceration, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

2023:PHHC:161444

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

7. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

8. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

15.12.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No