

2023:PHHC:165181

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

202

CRM-M-63437-2023 (O&M)

Date of decision : 22.12.2023

Gurdeep Singh @ Nikka Baj

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ritesh Pandey, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
with ASI Sohan Lal.

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.35 dated 24.04.2023, registered for the offences punishable under Sections 21(b) and 27-A of NDPS Act (Section 29 of NDPS Act added later on) at Police Station Sadara, District Gurdaspur.

2. Counsel for the petitioner submits that the petitioner has been nominated merely on the basis of disclosure. Mere disclosure would not be sufficient to drive home guilt of the petitioner. He further submits that the investigation is complete and in whole of the report under Section 173 Cr.P.C. apart from the disclosure, there is no incriminating evidence against the petitioner.

2023:PHHC:165181

3. The aforesaid fact is not disputed by learned State counsel.
4. I have heard counsel for the parties and have gone through the records of the case.
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. In view of above, 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 :-

- (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.

2023:PHHC:165181

(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.

9. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

22.12.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No