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

**CRM-M-9291-2024 (O&M)**

**Date of Decision: 03.07.2024**

**Mohammad Yaseen**

....Petitioner

Versus

**Union of India**

.....Respondent

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Sandeep Arora, Advocate, for the petitioner.

Ms. Gurmeet Kaur Gill, Senior Panel Counsel,  
for respondent-NCB.

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**JASGURPREET SINGH PURI, J. (Oral)**

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in complaint/crime NCB No.53/2021 dated 22.08.2021, under Sections 8, 20, 25, 27-A, 29, 60 & 61 of NDPS Act, 1985 registered at Police Station Taragarh, Pathankot, District Pathankot, Narcotic Control Bureau, Amritsar.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where a complaint was filed by the respondent-NCB against two co-accused namely, Nazeer Mohammad and Mohammad Rafi and thereafter, on the basis of disclosure statement of the aforesaid co-accused and one more co-accused namely, Rahul Uppal, the name of the present petitioner was nominated and thereafter, a supplementary complaint was filed qua the present petitioner. He submitted that the aforesaid co-accused namely, Rahul Uppal has since been extended the benefit of regular



bail by a Co-ordinate Bench of this Court in CRM-M-3353-2022 on 18.07.2023 and has submitted that he was nominated on the basis of disclosure statement of the aforesaid co-accused and now his custody is 8 months and 19 days. He submitted that the charges in the present case have already been framed and there is no other evidence available with the prosecution to connect the petitioner with the present offence except for the aforesaid disclosure statement of the co-accused and therefore, the petitioner may be considered for grant of regular bail. He also submitted that the petitioner is not involved in any other case under the NDPS Act but he is involved in one case under Section 323 IPC and another case under Sections 341 and 149 IPC and it was only because of false implication that the petitioner has faced the aforesaid incarceration.

3. On the other hand, Ms. Gurmeet Kaur Gill, learned Senior Panel Counsel appearing on behalf of respondent-NCB has submitted that so far as the custody of the petitioner is concerned, the same is correct but it is not correct that the NCB did not have any information pertaining to the petitioner and that it was only on the basis of disclosure statement. She submitted that initially there was a secret information qua the petitioner which is Annexure R-1 that he is sending two persons alongwith Charas and thereafter, there has been a recovery of 24 kgs. of Charas from the aforesaid two co-accused but before the aforesaid recovery, the NCB also raided the house of the petitioner but he was not found and thereafter repeated notices were sent to him but he did not respond to the notices nor did he appear and even his anticipatory bail application was rejected on 19.01.2022 and again he did not appear and ultimately, he surrendered on 12.10.2022. She submitted that since the preliminary investigation qua the



petitioner was not completed, the complaint could not be filed against him and thereafter when he surrendered and the investigation was completed, then the NCB filed a supplementary complaint against the petitioner. She submitted that the petitioner is the prime accused in the present case because it was on his instance that the aforesaid two co-accused were to deliver 24 Kgs. of Charas which falls in commercial quantity under the NDPS Act and his custody is only 8 months and 19 days. She submitted that the plea which has been raised by the learned counsel for the petitioner that his name has been nominated on the basis of disclosure statement of a co-accused is not correct and rather the NCB already had information pertaining to the petitioner which is clear from Annexure R-1 because he is the main source who had sent the other co-accused from whom recovery was effected. She also submitted that there has been no recovery from the petitioner.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner has already faced incarceration for more than 8 months. As per the learned counsel for the parties, initially the petitioner was not nominated but thereafter when he was arrested, his name was nominated and subsequently, a complaint was filed against him. It is also the case of both the learned counsel for the parties that there has been no recovery effected from the petitioner and the allegation against the petitioner is that he had sent the aforesaid two co-accused from whom recovery of 24 kgs. of Charas was effected. The petitioner is stated to be not involved in any other case under the NDPS Act, as per learned counsel for the parties. Therefore, this Court is of the view that the bar contained under Section 37 of the NDPS Act will not apply to the present case since no

recovery has been effected from the petitioner and also he has no



antecedents pertaining to the NDPS Act. The mere fact that a secret information was received by the NCB qua the petitioner and the fact that two other cases under Sections 323 and 341 IPC are pending against the petitioner also cannot become a ground for denial of bail to the petitioner in the present case.

6. Therefore, considering the totality of facts and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

03.07.2024

rakesh

(JASGURPREET SINGH PURI)  
JUDGE

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|--------------------|---|--------|
| Whether speaking   | : | Yes/No |
| Whether reportable | : | Yes/No |