

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12447-2024
Date of decision : 21.03.2024

MALKINDER SINGHPetitioner

Versus

STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. KPS Virk, Advocate and
Mr. Parvesh Malik, Advocate
for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.270 dated 15.09.2023 registered for the offences punishable under Sections 15, 27A-61-85 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Safidon, District Jind.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. As per the case of the prosecution one Satish son of Kitaba Ram was apprehended and was found to be in conscious possession of 50 kg. 300 grams of *poppy husk*. He further suffered disclosure which led to recovery of 40 kg. of *poppy husk* buried in a Farm. The Farm belongs to the present

petitioner Malkinder Singh. Disclosure was made by Satish which led to nomination of the present petitioner.

4. Counsel for the petitioner submits that the petitioner has been wrongly nominated as the day when the recovery was made i.e. on 15th of September, 2023 the petitioner was already in police custody in FIR No.256/2023 dated 30th of August, 2023. He thus submits that once the petitioner himself was in police custody, it cannot be said that he was in conscious possession of the contraband recovered from his Farm which is in fact an open land. He further submits that so far as the disclosure made by Satish is concerned, the same itself is a weak piece of evidence in view of dictum of law laid down by Apex Court in **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1**.

5. State Counsel is not in position to dispute that in fact on the day the recovery was made from the Farm of the petitioner, the petitioner was in police custody and that too from 15 days prior thereto.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the nature of allegations and the nature of evidence against the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. 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.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. 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.

10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 21, 2024
Dpr

(Pankaj Jain)
Judge

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