



208.
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-14031-2024
Date of decision: 14.10.2024

Varun Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Prateek Pandit, Advocate for the petitioner.
Ms. Manjot Kaur, AAG, Punjab.

GURBIR SINGH, J.

1. Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.122 dated 09.07.2022 under Sections 21, 22, 29 of NDPS Act registered at Police Station Bhargo Camp, District Police Commissionerate, Jalandhar.
2. As per allegations, police arrested co-accused namely Mandeep @ Mani and recovered 80 grams heroin and 255 of intoxicant powder which was later found to be Alprazolam. The co-accused Mandeep made a disclosure statement and named the petitioner that he purchased the contraband from the petitioner.



3. Learned counsel for the petitioner has argued that the petitioner has been nominated in the present case only on the basis of disclosure statement of co-accused Mandeep Singh @ Mani while in custody and the same is inadmissible and not a piece of evidence. The petitioner was not even present at the place of recovery. No recovery has been effected from the conscious possession of the petitioner. He further submits that there is only disclosure statement against the petitioner that the recovered contraband was purchased from the petitioner. The petitioner is in custody since 01.02.2024. Reliance has been placed on judgment passed by Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu, 2021 (1) RCR Criminal 1*.

4. Status report by way of affidavit of Harshpreet Singh, PPS, Assistant Commissioner of Police, West, Jalandhar has been filed and the same is taken on record. Learned State counsel has opposed the bail to the petitioner on the ground that the petitioner is involved in one more case under NDPS Act so the petitioner is not entitled for concession of bail. She further submits that the petitioner has supplied the contraband to the co-accused from whom contraband has been recovered. She fairly admits that the petitioner is in custody since 01.02.2024. On asking, she submits that there is only disclosure statement of the co-accused against the petitioner and no evidence has come on record.

5. I have heard the submissions of learned counsel for the parties and have gone through the paper book.



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6. There is no other evidence collected against the petitioner except the disclosure statement made by the co-accused. The co-accused made statement that contraband recovered was supplied to him by the petitioner. No recovery has been effected from the petitioner. In the case of *Tofan Singh (Supra)*, it is held that the statement made by the co-accused is not admissible in evidence. Since the completion of trial will take a long time, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate concerned with the following conditions:

- (i) that petitioner shall surrender his passport in the trial Court
- (ii) that petitioner shall get his mobile number registered on the CIS to receive messages and shall not change his mobile number during the pendency of the case except with prior permission of Court concerned.
- (iii) that petitioner shall disclose to the concerned police station his residence address and he shall not change his said residence address without informing the concerned Police Station and trial court.



8. The Court concerned may impose any other conditions. In case of default, the Court concerned is competent to cancel the bail granted to the petitioner.

9. It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

14.10.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No