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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-18696-2024
Date of decision : 23.04.2024

Kamlesh Kumar @ Kamlesh Paswan Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

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.836 dated 08.12.2023, registered for the offences punishable under Sections 15 of NDPS Act, 1985 (Section 29 of NDPS Act added later on), at Police Station Sadar Thanesar, District Kurukshetra.
2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.
3. Counsel for the petitioner submits that there is no recovery effected from the petitioner. 54 kg of poppy husk was recovered from the conscious possession of one Baldev Singh who further nominated the present petitioner. Petitioner has no criminal antecedents. Reliance is being placed upon **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1** **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1** to contend that the disclosure made by a co-accused that too while in

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police custody cannot be relied upon to drive home offence *qua* the petitioner.

4. State Counsel is not in position to dispute the factual assertions made by counsel for the petitioner based on record.

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

6. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner i.e. more than 04 months and 09 days, nature of allegation against the petitioner and the nature of evidence against him, 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.

7. 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 cellphone number without permission of the trial Court.

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

8. 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.

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

(PANKAJ JAIN)
JUDGE

23.04.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No