



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No. 203

CRM-M-18582-2024
Date of Decision:16.09.2024

JASPREET SINGH @ JASSU

...Petitioner

VERSUS

UNION OF INDIA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.S. Verma, Advocate
for the petitioner.

Mr. Rajiv Sharma, Senior Central Government Counsel,
for the respondent.

JASGURPREET SINGH PURI, J.(ORAL)

1. This is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing Crime No.50 dated 10.07.2022, under Sections 08, 15, 18, 21, 25, 27-A, 28, 29 & 60 of the Narcotic Drugs & Psychotropic Substances Act, 1985, registered at Police Station NCB, Chandigarh.
2. It has been submitted by learned counsel for the petitioner that the custody of the petitioner is 01 year and 09 months i.e. from 12.12.2022 and it is a case where the petitioner has been falsely implicated. He further submitted that in the present case, only seven witnesses have been examined till date. He has also submitted that it is a case where the name of petitioner has been nominated on the basis of disclosure statement made by one co-accused namely Kuljeet Singh and neither any recovery has been effected



from the petitioner nor he is stated to be involved in any offence even during the course of investigation. It is submitted that on bare perusal of the reply filed on behalf of the respondent, information which has been given with regard to the fact that the petitioner was in contact with other co-accused who were in the truck from where the contraband was effected. He has also submitted that it is a settled law that mere fact that if any person was in contact with other co-accused from where the contraband was recovered, would not have any presumption that he is also involved in contraband business. He has also submitted that as per the alleged allegations levelled against the petitioner, he was a financier of the contraband whereas in fact, the petitioner has been nominated on the basis of disclosure statement of co-accused and there is nothing on the record to connect the petitioner with the offence except the aforesaid disclosure statement, which is not admissible in evidence *per se* in view of the judgment of Hon'ble Supreme Court in *Tofan Singh V/s. State of Tamil Nadu [2021 (4) SCC 1]* and also submitted that so far as the telephone calls are concerned, the same cannot be read as conclusive proof unless some recording is placed on record. In this regard, he has also submitted that considering the custody period of the petitioner, the petitioner is entitled for grant of bail. He has also submitted that the petitioner is involved in one more case under NDPS Act and in that case he was nominated as accused on the basis of disclosure statement made by co-accused.

3. On the other hand, Mr. Rajiv Sharma, learned Senior Central Government Counsel, submits that so far as the custody period of the petitioner is concerned, the same is correct and also it is correct that the



petitioner is involved in one more case under the NDPS Act but he is not aware as to whether how much recovery of contraband was effected in that case because that case was not registered by NCB Agency. It is also submitted that huge recovery i.e. 194.200 kgs. of Poppy Straw, 4.100 Kgs. of Opium and 6000 tablets of Lomotil containing the salt of Dipenoxylate were effected from the co-accused namely Kuljeet Singh and Hemraj, who were found in the truck and on the information received by NCB, truck in question was intercepted and the aforesaid contraband was recovered. He has also submitted that when the investigation was conducted, the aforesaid co-accused had made a disclosure statement and on the basis which the present petitioner was nominated and during investigation it was found that the petitioner was in contact through telephone with the aforesaid co-accused and that he had financed the aforesaid contraband and, therefore, the petitioner does not deserve the concession of regular bail.

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

5. So far as the custody of the petitioner is concerned, it is stated to be 01 year and 09 months and seven prosecution witnesses are stated to be examined till date. The name of the petitioner is stated to be nominated as an accused on the basis of disclosure statement made by co-accused and there has been no recovery effected from the conscious possession of the present petitioner in the present case. The ground which is taken by learned counsel for the respondent that the petitioner was in touch with the co-accused on telephone itself cannot be a ground to deny bail to the petitioner especially when the custody is 01 year and 09 months. It is a settled law that so far as disclosure statement made by co-accused is concerned, is not



admissible in evidence unless there is some connectivity with the instant issue. Except for the aforesaid disclosure statement of co-accused and telephonic contact with the co-accused, nothing has been placed on record to show any connectivity. Since, there has been no recovery from the conscious possession of the present petitioner, the bar contained under Section 37 of the NDPS Act will not apply to the petitioner in the light of Article 21 of the Constitution of India. Therefore, in the light of the aforesaid facts and circumstances, this Court deems it fit and proper to grant the concession of regular bail to the petitioner.

6. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

(JASGURPREET SINGH PURI)
JUDGE

16.09.2024
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No