

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49130-2023 (O&M)
Date of decision : 27.02.2024

SUNNYPetitioner

Versus

STATE OF HARYANA ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Monty Goyal, Advocate for the petitioner.
Mr. Gaurav Bansal, 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.233 dated 24.09.2020 registered for the offences punishable under Sections 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and Sections 27(A), 29, 61, 85 of N.D.P.S. Act added later on at Police Station Sadar, Ratia, District Fatehabad.

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 Kuljinder Singh and Hardeep Singh were apprehended while riding motorcycle bearing registration No.HR-40F-8892 and on search 19800 tablets of 'Tramadol Hydrochloride' were recovered from them. On their disclosure, Monu

Goswami and Manav Verma were apprehended and the present petitioner was nominated further by Monu Goswami. There is no recovery of any contraband from the petitioner. He was ordered to be admitted to bail vide order dated 20th of August, 2021. However, on 7th of April, 2022 he absented himself from the trial which led to passing of the order cancelling his bail bonds. The petitioner approached this Court by way of CRM-M No.36197 of 2022 which came up for hearing before this Court on 31st of May, 2023. The petitioner was directed to surrender before the Trial Court/Duty Magistrate within a period of one week and was ordered to be admitted to interim bail to the satisfaction of the Trial Court subject to his depositing costs of Rs.25,000/- with Sadhna Society for Mentally Handicapped Near Housing Board Chowk, Raen Basera Building, Manimajra, Sector 13, Chandigarh. The petitioner though deposited the said amount on the said date however failed to surrender. Thereafter, he filed an application seeking extension of time which was ordered to be listed on 29th of August, 2023. On 29th of August, 2023 the petitioner ultimately withdrew the said petition. The petitioner was declared Proclaimed Offender vide order dated 5th of August, 2023. He raised challenge to the said order vide CRM-M No.42670 of 2023 which came up for hearing before this Court on 29th of August, 2023. The same was disposed off observing as under:

1. After arguing for some time, learned counsel for the petitioner restricts his prayer that the petitioner would surrender

before the Court below within ten days from today and apply for regular bail, his application be taken up expeditiously.

2. The petition is dismissed as not pressed.

3. In case the petitioner surrenders within fifteen days from today and applies for regular bail, the court concerned shall take up the bail application and decide it within three days.

4. The petitioner surrendered in compliance of the aforesaid order and his bail plea stands dismissed vide order dated 6th of September, 2023. Since then the petitioner is behind bars.

5. As per the custody certificate, the petitioner has by now undergone actual custody of 1 year and 6 days. There is another case against him under the NDPS Act i.e. FIR No.297/2020 dated 25th of October, 2020. Counsel for the petitioner submits that in the said matter also the petitioner has been nominated on the basis of disclosure by resorting to Section 29 of the Act.

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

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

8. Keeping in view the conduct of the petitioner there is no justifiable reason to enlarge him on bail. However, keeping in view the nature of allegations against him and the dictum of law laid down by the Supreme Court in **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1**, 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. However, subject to the condition that the petitioner shall deposit **Rs.1.00 lac** with the Trial Court concerned, which shall be kept in the form of FDR to be released to him on the conclusion of trial.

9. In addition to aforesaid condition and 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.
- (vii) The petitioner shall not in any manner try to delay the trial.

10. 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.

11. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
12. Pending application, if any, shall also stands disposed off.

February 27, 2024		(Pankaj Jain)
Dpr		Judge
	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No