

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.50852 of 2023 (O&M)

Date of decision : 29.01.2024

Mohit Kumar

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ashish Grewal, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (ORAL)

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.348 dated 15.07.2023 registered under Section 15 of NDPS Act (Section 29 of NDPS Act added later on) at Police Station Parao Ambala Cantt. District Ambala.

2 Reply by way of affidavit of Ram Kumar, HPS, Deputy Superintendent of Police, Ambala, District-Ambala on behalf of respondent has been filed. The same is taken on record.

3 As per the case of the prosecution co-accused Puran Chand @ Chand resident of village Jatwad District Ambala and Raj Kumar @ Raj resident of village Mukandpur, District Mohali, were apprehended while coming in car No.HR-01-AD-7868. On search 5 bags of white colour containing 100 kg of poppy straw were found from the boot of the car. The petitioner was nominated on the basis of disclosure made by co-accused and apart from that the incriminating evidence as per the prosecution against the petitioner is that he owns the car in which the contraband was being

transported.

4 Learned counsel for the petitioner submits that apart from the fact that the petitioner is owner of the car, there is no evidence that the contraband was being transported on his knowledge. The petitioner admittedly not being present on the spot cannot be said to be in conscious possession of the contraband.

5 Learned State counsel submits that apart from the disclosure made by co-accused, petitioner has also disclosed while in police custody that it was he who gave an amount of Rs.2.60 lakhs to Raj Kumar who purchased 100 kg of poppy seeds and it is the petitioner who claims to be addicted to consuming the same.

6 On being asked as to whether any dope test has been conducted on the petitioner, learned State counsel submits that no such test was conducted upon the petitioner as yet.

7 Custody certificate has been filed. The same is taken on record. As per the custody certificate, the petitioner is behind bars for more than 6 months & 10 days. Admittedly, no recovery has been effected from him and the petitioner has clean antecedents.

8 Learned State counsel on instructions from SI Nausad Khan is not in a position to dispute the aforementioned factual assertions based on record.

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

10 Keeping in view the incarceration suffered by the petitioner, nature of evidence against him and dictum of law laid down 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/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. 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.*

11 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

29.01.2024
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No