



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-52547-2023
Date of decision : 16.05.2024

Nihal Singh Petitioner

versus

State of Hayana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Saini, 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.170 dated 09.06.2023, registered for the offences punishable under Sections 20/29 of NDPS Act at Police Station Kalka, District Panchkula.
2. As per the case of prosecution, a secret information was received with respect to one Mahender Sharma being involved in dealing narcotics and psychotropic substance.
3. Mahender Sharma was apprehended near Parwanu toll plaza and on his search, he was found to be carrying 1 kg 26 gms. of heroin in carry bag. It is claimed that the said Mahender Sharma suffered disclosure nominating the present petitioner.
4. Counsel for the petitioner submits that apart from the disclosure made by Mahender Sharma while in police custody, there is no other incriminating evidence against the petitioner and it is a case



wherein no recovery has been effected from him.

5. State counsel does not dispute the aforesaid fact. However, submits that as per the call details, petitioner and Mahender Sharma talked for about 46 times from 06.04.2023 till 03.06.2023 i.e. around two months.

6. Counsel for the petitioner joins issue thereon and submits that merely for the reason that the petitioner had conversation with Mahender Sharma for about 40 times in 60 days does not lead to any inference that the petitioner was also one of the accused. Further reliance is being placed upon *Tofan Singh vs. State of Tamil Nadu* reported as **(2021) 4 SCC 1**, to submit that disclosure made by co-accused in police custody is a weak piece of evidence and cannot suffice to drive home guilt.

7. Petitioner is behind bars for more than 11 months and 01 days.

8. Keeping in view the incarceration suffered by the petitioner and the fact that the trial is not likely to conclude in the near future and the nature of evidence against him, the present petition is allowed. Petitioner is ordered to be released on regular 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.

9. 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.

10. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

16.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No