

228 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 55973 of 2023 (O&M)
Date of decision : 01.02.2024

Santokh Singh @ Sokha
.....Petitioner

vs.

State of Punjab
.....Respondent

CORAM: HON’BLE MR. JUSTICE PANKAJ JAIN

Present: Mr.P.B.S.Goraya, Advocate for the petitioner.

Mr. Iqbal Singh Mann, Deputy Advocate General,
Punjab, for the respondent/State

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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. 99 dated 07.06.2023, registered for the offences punishable under Sections 21/29/61/85 of the NDPS Act, at Police Station Beas. District Amritsar.
2. As per the case of the prosecution, one Jagroop Singh @ Sunny was apprehended and found to be in conscious possession of 260 grams of heroin. Said Jagroop Singh is stated to have suffered a disclosure statement, while in police custody, wherein he has nominated the present petitioner. It has been claimed that from further disclosure of the present petitioner, 50 grams of heroin was recovered.
3. Counsel for the petitioner submits that by now the petitioner is

in custody for more than 7 months and 20 days. The petitioner has been nominated on the basis of disclosure and the quantity alleged to have been recovered from the petitioner is less than the commercial, thus rigors of Section 37 of the NDPS Act, would be not attracted. He further submits that so far as his nomination by the co-accused is concerned, the same alone is a weak piece of evidence in terms of law laid down in *Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1* and would not be sufficient to drive home guilt against him.

4. Per contra, Mr. Iqbal Singh Mann, Deputy Advocate General, for the State, submits that it is not a case wherein the petitioner has been nominated only on the basis of disclosure, rather subsequent evidence has also come against the petitioner in the form of recovery made on his disclosure. He further submits that the petitioner is a habitual offender, being involved in another case under the NDPS Act.

5. Faced with the situation, counsel for the petitioner submits that even if that is taken into account, disclosure suffered by the petitioner will be admissible qua recovery of contraband, which is less than commercial and thus Section 37 of the NDPS Act, cannot be read to deny bail to the petitioner. The other case i.e. FIR No. 72 dated 18.3.2019 also related to the quantity which was less than the commercial and the petitioner stands admitted to bail after 23 days.

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

7. Without commenting on the merits of the case, considering the actual custody period already spent by the petitioner, nature of evidence and

the dictum of law laid down in **Tofan Singh's (supra)**, and the fact that the implication against the accused is based on the disclosure statement, the present petition is allowed.

8. 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.

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

01.02.2024
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(PANKAJ JAIN)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No