

**CRM-1500-2024 in/and
CRM-M-59813-2023**

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2024:PHHC:005935

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

**CRM-1500-2024 in/and
CRM-M-59813-2023
Date of decision : 16.01.2024**

LAKSHAY AGGARWALPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vinod Ghai, Senior Advocate with
Mr. Rahul Bhargav, Advocate and
Mr. Arnav Ghai, Advocate
for the applicant/petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

CRM-1500-2024

This is an application filed under Section 482 Cr.P.C. for placing on record the documents marked as Annexures P-15 to P-22.

For the reasons recorded in the application, the same is allowed. Documents marked as Annexures P-15 to P-22 are taken on record subject to all just exceptions.

CRM-M-59813-2023

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.68 dated 22nd of August, 2023 registered for the offences punishable under Sections 21(C) of

Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and under Sections 10, 11, 12 of Aircraft Act, 1934 (offences punishable under Sections 29, 27-A of NDPS Act, added later on) at Police Station Sarai Amant Khan, District Tarn Taran.

2. Custody Certificate of the petitioner has been produced. The same is taken on record.

3. One Jugraj Singh alias Jagga was apprehended and found to be in possession of 2 kgs of *heroin*. As per the prosecution version while in police custody the said Jugraj Singh alias Jagga suffered a disclosure during the course of interrogation stating that the drone recovered from him was sent by one Happy Kakkar, resident of Italy from Pakistant and on whose instance he supplies the contraband to Baba Nishan Singh son of Surjit Singh and Mewa Singh son of Tehal Singh. After supplying the *heroin* to them he used to take money. Some of the amount he used to keep with himself and remaining amount he used to hand-over to Vinay Aggarwal at Amritsar through Hawala. On the basis of such disclosure Vinay Aggarwal was nominated and arrested on 23rd of August, 2023. It is further being claimed that during the course of interrogation he also suffered disclosure that he is part of smuggling of *heroin* and is having contact with one Suhel resident of Afghanistan. On 26th of August, 2023 in his disclosure he is further claimed to have stated that he is being helped by his son Lakshay Aggarwal in transferring the amounts.

4. On 12th of December, 2023 when the bail petition filed by the petitioner was taken for consideration following order was passed :

“Counsel for the State submits that the petitioner is a habitual offender and has another FIR i.e. FIR No.17 dated 01.07.2018 registered against him. He prays for time to file reply.

xxx”

5. Today short reply by way of affidavit of Tarsem Masih, PPA, DSP, Sub Division Tarn Taran, District Tarn Taran has been filed on behalf of respondent/State today in Court, wherein the precise stand taken by the prosecution w.r.t. the aforesaid statement made by State Counsel reads as under :

“8. That as far as factum regarding involvement of the petitioner in another case is concerned, it is submitted that the police official assisting the state counsel that on the last date of hearing informed that one another FIR No.17 dated 01.07.2018 is registered against the petitioner but the undersigned minutely inquired the above said fact and came to know that in-fact except the present case, no other case has been registered against the petitioner and the police official inadvertently informed the factum of another case against the petitioner and keeping in view the above said negligence on the part of police official, the show cause notice has been issued to the police official in order to give him opportunity of being heard and after getting the written reply of the above said show cause notice, appropriate action will be taken against him in accordance with law.

9. That as far as the role of the petitioner is concerned, it is submitted that as per the interrogation repor of the co-accused Vinay Aggarwal, the petitioner is involved with him in drug trade with his father, as such, the petitioner has committed the

present serious offence.”

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

7. Keeping in view the fact that admittedly the petitioner has clean antecedents and even if the disclosure made by Vinay Aggarwal is taken on its face value he claims to be helped by his son in his business, apart from the fact that it is a disclosure statement which in terms of law laid down by the Apex Court in **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1** alone can not drive home the guilt of the petitioner, 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.

8. 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. Needless to say that anything observed hereinabove shall not
be construed to be an expression of opinion on the merits of the case.

January 16, 2024
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No