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

CRM-M-45913-2023
Date of decision : 31.10.2023

SAWINDER SINGH @ SUKHWINDER SINGH @ SONU
...Petitioner

Versus

STATE OF PUNJAB ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Shivender Pal, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

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.96 dated 10th of June, 2023 registered for the offences punishable under Sections 21-C, 25, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Lopoke, District Amritsar.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. The petitioner has been nominated on the disclosure made by one Rajwant Singh from whom recovery of 5 kg. of *heroin* was made. Rajwant Singh is stated to have suffered a statement in which he disclosed that the petitioner was also involved with him.

4. Counsel for the petitioner submits that there is no recovery made from the petitioner and in view of law laid down by Apex Court in the case of '**Tofan Singh vs. State of Tamil Nadu**', (2021) 4 SCC 1 mere disclosure made by co-accused being inadmissible in evidence cannot be read against the petitioner.

5. Per contra, counsel for the State however submits that the petitioner is facing another FIR under the NDPS Act and thus he does not deserve to be enlarged on bail.

6. Faced with the situation counsel for the petitioner relies upon order dated 26th of June, 2023 passed by Judge, Special Court, Amritsar, placed on record as Annexure P-2 to submit that the petitioner in the said case was booked for allegedly having been found in possession of 20 grams of *heroin* which is non-commercial and already stands released on bail. Petitioner is behind bars for more than 4 months and 12 days. Most of the witnesses are official witnesses.

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

8. In view of above, without commenting on the merits of the case and keeping in view the incarceration already suffered by 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.

9. 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 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.

October 31, 2023
Dpr

(Pankaj Jain)
Judge

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