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

**CRM-M-29866-2024  
Reserved on: 02.04.2025  
Pronounced on:25.04.2025**

**MALKEET SINGH**

**... Petitioner**

**Versus**

**STATE OF HARYANA**

**... Respondent**

**CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.**

Present:- Mr. Mohammad Arshad, Advocate for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

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**SANJIV BERRY, J. (ORAL)**

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case (Annexure P-1):-

<b>FIR No.</b>	<b>Dated</b>	<b>Sections</b>	<b>Police Station</b>
416	05.08.2023	15(C), 29 of NDPS Act and 201 IPC	Sadar Fatehabad, District Fatehabad

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the present case. He contends that petitioner was not named in the FIR but was nominated on the disclosure statement of co-accused Jagdish from whose car alleged contraband was recovered, he alleged that the petitioner was driving the Safari car piloting the vehicle carrying contraband. He contends



that after the arrest of the petitioner no recovery of contraband was effected from him. He contends that there is no material available with the police to connect the petitioner with the present offence except for the disclosure statement of the aforesaid co-accused which is not admissible in evidence and also referred to a judgment of Hon'ble Supreme Court passed in "*Tofan Singh Vs. State of Tamil Nadu*", 2021(4) SCC 1 in this regard. He submitted that in view of the aforesaid facts and circumstances, since even as per the police, no recovery was effected from the petitioner in the present case, the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner. The petitioner was arrested on 20.12.2023 and since then he is in custody, after completion of investigation, challan has already been presented in Court, and the conclusion of trial will take sufficient long time to conclude, hence prays for grant of concession of bail to the petitioner.

3. *Per contra*, learned State counsel referring to the reply submitted by the State has opposed the bail petition by arguing that petitioner was specifically named in the disclosure statement of co-accused Jagdish, wherein it is specifically alleged that the petitioner was piloting the car carrying contraband from Bhilwara in Safari car bearing Registration No. RJ02UB-1981. He contends that 140Kg of poppy husk was recovered from the accidental car Baleno which was piloted by the petitioner and the alleged recovery falls within the purview of commercial quantity. He contends that petitioner is also involved in two other NDPS cases. Hence prayed for dismissal of the bail petition.

4. After considering the rival contentions and perusing the record,



it transpires that during patrolling police party found an accidental car struck with stones lying on the road, numbered as RJ02-CF-3899, make Baleno, on checking the car no person was found inside but some plastic bags were found in the car in which 140 kg of poppy husk was recovered along with mobile phone and SIM card. Accordingly, FIR was registered against unknown driver of the vehicle. During investigation, the alleged car was found in the name of Gurnam Singh. Police obtained CDR, CAF Id and tower locations of Jagdish son of Gurnam Singh and it was found that the location of co-accused Jagdish was found at the place of occurrence, accordingly, he was arrested on 08.10.2023 and in his disclosure statement he disclosed that Raj alias Rajender Singh and Malkeet Singh are his friends and he had a Baleno car bearing registration No.RJ-02CF-3899 which belongs to his father and on 05.08.2023 he was traveling alongwith Raj alias Rajinder in the said Baleno car while petitioner was piloting their car in his Safari car. As per reply, submitted by learned State counsel petitioner was involved in two other cases registered under NDPS cases, but on query he is stated to be on bail in those cases.

Admittedly the petitioner was not named in the FIR but was nominated on the disclosure statement of co-accused Jagdish, and consequently, petitioner was arrested on 20.12.2023 and no recovery of contraband was effected from him. After completion of investigation, challan has already been presented in Court wherein prosecution has cited 27 witnesses and till date only two witness have been examined. The conclusion of trial to ascertain criminal liability, if any, of the petitioner will take sufficient long time, therefore, no purpose would be served by



detaining the petitioner any longer in custody.

5. Resultantly, in these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

6. It is further made clear that in case the petitioner is again found involved in any case under NDPS Act, in future, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

8. Pending application(s) if any shall also stand disposed of.

**(SANJIV BERRY)**  
**JUDGE**

**25.04.2025**

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| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |