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

CRM-M-5746-2025

Date of Decision:21.02.2025

KULWANT SINGH @ PIPPAL @ KALA

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Ms. J.S.Sandhu, Advocate for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 483 of BNSS, 2023 is for grant of regular bail to the petitioner in case having FIR No.05 dated 22.01.2024 registered for the offences punishable under Section 21 of NDPS Act and Section 29 of NDPS Act added later on at Police Station Arifke, District Ferozepur.

2. Short reply by way of an affidavit of Sukhwinder Singh, PPS, Deputy Superintendent of Police (City), District Ferozepur filed on behalf of the State is taken on record.

3. The allegations in nutshell are that police effected recovery of 1.5 kg of heroin from co-accused Gurpreet Singh on 22.01.2024. Thereafter present petitioner, Akashdeep Singh and Rajinder Singh were nominated as accused on the basis of disclosure statement suffered by



aforesaid Gurpreet Singh. Thereafter, all the said three persons were arrested in the present case.

4. Counsel appearing on behalf of petitioner *inter alia* submits that petitioner is falsely implicated in the present case, on the basis of alleged disclosure statement suffered by co-accused and the same is hit by the ratio laid down by Hon'ble Supreme court in **Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1** and the said disclosure statement is inadmissible in evidence and that otherwise also at the time when alleged recovery of 1.5 Kg of heroin was effected from co-accused Gurpreet Singh by the police in the present case, the petitioner was lodged in jail in some other criminal case. Furthermore the petitioner is in custody for the last about 1 year and it will take time for the trial to conclude. So, prayer is made that further detention of the petitioner in judicial custody is not going to serve any purpose.

5. Present petition is resisted by the State Counsel, who on instructions from ASI Gurcharan Singh submits that the FIR in this case was registered against co-accused Gurpreet Singh from whom recovery of 1.5 kg of heroin was effected. That subsequently, petitioner was nominated as accused on the basis of disclosure statement suffered by aforesaid Gurpreet Singh. It is further submitted that stringent provision of Section 37 of NDPS Act are applicable to the instant case, as the aforesaid recovery falls under commercial quantity of contraband. However, the State counsel has not disputed the fact that except for



aforesaid disclosure statement, no other incriminating evidence is available on the record against the present petitioner to connect him with the recovery stated to be effected from Gurpreet Singh. It is also not disputed that the petitioner is in behind bars for the last more than 11 months and 14 days and in the instant case no contraband was recovered from the conscious possession of the present petitioner and that still 11 more witnesses remain to be examined on behalf of the prosecution. The State counsel has also not disputed the fact that one another accused Akashdeep Singh, who was also nominated as accused on the basis of disclosure statement is already enlarged on bail by this Court vide order dated 10.01.2025.

7. I have considered the submissions made by the counsel for the parties.

8. Admittedly, the petitioner was not named in the FIR and later on, he was nominated as accused on the basis of disclosure statement suffered by co-accused Gurpreet Singh from whom police is stated to have recovery 1.5 kg of heroin. The veracity and relevancy of the said disclosure statement is subject matter of trial. It is also not disputed by State counsel that at the relevant time when the aforesaid recovery of contraband was effected from co-accused Gurpreet Singh, the petitioner was lodged in jail. Admittedly the petitioner is in custody in the instant case for the last about 1 year and it will take time for the trial to

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terminate. In the given circumstances, no purpose is going to be served by keeping the petitioner in custody for any longer period.

9. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

21.02.2025

Priyanka Thakur

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No