



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

CRM-M-52720-2024
Date of decision: 14.01.2025

Surender Kumar @ Surinder Jakhar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition under Section 482 of BNSS 2023 is filed by the petitioner seeking grant of regular bail in a criminal case having FIR No.42 dated 14.04.2024, under Sections 15(c)/25/29/61/85 of NDPS Act, Police Station Dhanaula, District Barnala.

2. The allegations in nutshell are that police recovered 21 quintals of poppy husk from a canter having registration No.HR-69-C-1373 on 14.04.2024, which was driven by co-accused Vikram Kumar. During investigation, Vikram Kumar suffered disclosure statement on 16.04.2024 to the effect that the aforesaid contraband was supplied to him by the present petitioner. Consequently, petitioner was nominated as accused and arrested on 30.06.2024.

3. The counsel for the petitioner inter alia submits that the petitioner who is having no criminal history was falsely nominated as accused on the basis of alleged disclosure statement suffered by co-accused.



The said disclosure statement is inadmissible in evidence, as per the law laid down by Hon'ble Supreme Court in *Tofan Singh Vs. Tamil Nadu (2021) 4 SCC 1*. It is further submitted that petitioner is incarcerated for last more than 6 months and during investigation, no contraband was recovered at the instance of the petitioner who is presently lodged in judicial custody. It is further submitted that there are no call detail records or any other document to corroborate the alleged disclosure statement suffered by co-accused Vikram Kumar against the present petitioner. It is further submitted that in the given circumstances, no purpose is going to be served by keeping the petitioner in custody for any longer period, as it will take time for the trial to conclude.

4. Status report by way of affidavit of Satvir Singh, Deputy Superintendent of Police, Sub Division Barnala filed on behalf of the State was placed on record along with report of FSL Annexure R-1.

5. The present petition is resisted by the State counsel who submits that commercial quantity of poppy husk was recovered from a vehicle driven by co-accused Vikram Kumar, who during interrogation suffered disclosure statement to the effect that he procured the aforesaid contraband from the present petitioner and thereafter, petitioner was arrested on 30.06.2024 and on completion of investigation, police has presented challan and after framing of charges, no prosecution witnesses has been examined. The State counsel on instructions from ASI Jasbir Singh has admitted the fact that during investigation, no contraband was recovered at the instance of the petitioner, who is having no criminal antecedents.

6. Admittedly, the petitioner who was not named in the FIR was



later on nominated as accused on the basis of disclosure statement suffered by co-accused Vikram Kumar from whom police is stated to have recovered 21 quintals of poppy husk. The veracity, relevancy and admissibility of the said disclosure statement will be tested during trial. The petitioner is in custody for the last more than 6 months and during investigation, no contraband was recovered from the petitioner, who is having no criminal history. The State counsel has failed to produce any call detail records or some other documents corroborating the contents of the disclosure statement suffered by co-accused against the petitioner. Further, it will take time for trial to terminate, as the same is at its initial stage. In the given circumstances, no purpose is going to be served by prolonging judicial custody of the petitioner.

7. 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.

14.01.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No