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

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CRM-M-3560-2025 (O&M)
Date of decision: 13.05.2025

Gurmej Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Rahi Mehra, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case arising out of FIR No. 184 dated 09.10.2024, registered under Sections 21(c), 27(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Chheharta, District Amritsar (Rural).

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on receiving a secret information that co-accused Akashdeep Singh @ Akash and Satinderpal Singh @ Satti, who are real brothers, were involved in smuggling with Pakistani smugglers, a raid was conducted at their house and on the demarcation of co-accused Akashdeep Singh @ Akash, 2 kgs. and 500 grams of heroin along with drug money of Rs.2.32 Lakhs was recovered, whereas 2 kgs. of heroin and drug money of Rs. 2 Lakhs was recovered on the demarcation of co-accused Satinderpal Singh @ Satti. They were formally arrested at the spot. During the course of investigation, the disclosure statements of above named co-accused were recorded and on the

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basis of the same, some other persons were also nominated in this case and certain recoveries of contraband were effected. Co-accused Akashdeep Singh @ Akash made further disclosure, wherein he disclosed that the present petitioner, who was deputed in jail being an official, used to contact him by making Whatsapp calls from his mobile number in order to get heroin to supply the same to jail inmates. On the basis of the same, the present petitioner was nominated in this case as an accused and was arrested on 10.10.2024. He had moved an application before the Court of learned Judge, Special Court, Amritsar but the same had been dismissed, vide order dated 04.01.2025.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in evidence against him. He was not even named in the secret information. He was in fact working as jail warden and had no connection with the co-accused. To fortify this argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in *Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1*. It is further argued that the no subsequent recovery has been effected from the petitioner. The petitioner is not involved in any other case of similar nature. There is nothing on record to connect the petitioner with the subject crime. The petitioner is in custody since 10.10.2024. The case is still under investigation. No useful purpose would be served by keeping the petitioner in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

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4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that though the petitioner was nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, his involvement in the subject crime has been established. The petitioner used to supply the contraband to jail inmates by taking the same from the co-accused. He used to contact the co-accused by making Whatsapp calls from his mobile phones. Investigation is still going on. There are serious allegations against the petitioner. It is, thus, argued that the petition is liable to be dismissed.

5. In reply, learned counsel for the petitioner has relied upon an order dated 23.08.2023, passed by the Hon'ble Supreme Court in Special Leave to appeal (Crl.) No. 6599/2023, titled as *Ajmal T. A. @ Kuru vs. State of Kerala*, whereby in similar circumstances, the petitioner-accused had been granted concession of regular bail by observing that there was remote likelihood of the petitioner's involvement as the alleged involvement was entirely based upon the co-accused's statement and alleged call details record.

6. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

7. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Akashdeep Singh @ Akash, who was apprehended by the police party along with co-accused Satinderpal Singh @ Satti and aforesaid recovery of heroin and drug money was effected from them. The allegations against the petitioner are that he used to procure contraband from the co-accused by contacting him through Whatsapp calls

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and used to supply the same to jail inmates. However, after the arrest of the petitioner, nothing incriminating was recovered from him. The case is still under investigation. The petitioner is in judicial custody since 10.10.2024. At this stage, there is nothing on record to connect the petitioner with the subject crime, except the aforesaid disclosure statement of the co-accused. As per ratio of law as laid down by Hon'ble Supreme Court in above cited authority, the same alone cannot be a ground to deny the benefit of bail to the petitioner as no subsequent recovery of any narcotic substance was effected from him. Keeping in view the discussion as made above, I am of the considered opinion that no useful purpose would be served by detaining the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

13.05.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*