

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

CRL. MISC. No.M-23048 OF 2017
DATE OF DECISION : 4th JULY, 2017

Bachitar Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Ms. Satinder Kaur, Advocate for the petitioner.

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A. B. CHAUDHARI, J. (ORAL)

The petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail in FIR No.56 dated 24.06.2012 registered under Sections 15/61/85 OF NDPS Act at Police Station Mehna, District Moga.

Notice of motion.

Mr. Ramandeep Sandhu, Sr. D.A.G. Punjab accepts notice on behalf of the State.

Rule.

Heard forthwith with consent of learned counsel for the parties.

The prosecution case is that on secret information the police party reached the spot on 24.06.2012 and the police party, including PW-5 Jaswant Singh found Nissan Singh and petitioner-Bachitar Singh, who were habitual in selling poppy husk, with a tractor-trolley loaded with huge quantity of poppy husk. After investigation the challan was filed

but the petitioner Bachitar Singh was declared innocent and his name was placed in column number 2 of the challan. When the case became ripe for hearing, the trial Court found that it was necessary to exercise the power under Section 319 Cr.P.C. as there was involvement of the petitioner in the case in question and that is why the trial Court has issued accused summons against the petitioner under Section 319 Cr.P.C.

Learned counsel for the petitioner fairly states that there is one more case against the petitioner having been in possession of 200 grams heroin. However in that case the petitioner is on bail. According to her there is no other case except the present one and therefore, she further submits that the petitioner has never been found thereafter i.e. after 2012 to have been involved in any other case under NDPS Act and nor there is any other criminal misconduct reported against the petitioner.

Having regard to the fact that the FIR relates to the year 2012 and that more than 5 years has been passed and the trial Court has now exercised the power under Section 319 Cr.P.C. deciding to call the petitioner as additional accused, in the absence of any criminal record against the petitioner after 2012, I do not think that any fruitful purpose will be served in refusing the grant of anticipatory bail to the petitioner, looking to the time span that has already passed. This is all the more because the counsel for the petitioner states that after 24.06.2012 there is no criminal case registered anywhere against the petitioner. In such circumstances, I think, the benefit of being on liberty should be given to the petitioner.

Learned counsel for the petitioner submits that the petitioner will file undertaking before the trial Court that the petitioner would not

indulge in any offence and it is made clear that if petitioner is found indulged in any offence, the prosecution would be at liberty to apply for cancellation of present order. In the result, I make the following order:

ORDER

- (i) CRL. MISC. No.M-23048 OF 2017 is allowed.
- (ii) In the event of arrest, the petitioner shall be released on *ad-interim* anticipatory bail in this case, on furnishing of bail bonds amounting to ₹10,000/- with one surety in the like amount to the satisfaction of the trial Court.
- (iii) The petitioner shall file an affidavit within two weeks that he will not commit such type of offence again.
- (iv) The State will be at liberty to apply for cancellation of bail in case of any further commission of such type of offence by the petitioner.

4th JULY, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>