

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 30.05.2018

1. CRM-M-9692-2018 (O&M)

Pankaj Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-14091-2018 (O&M)

Pankaj Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ajay Kamboj, Advocate
for the petitioner (in both cases).

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in these petitions is for grant of anticipatory bail to the petitioner in FIR No.127 dated 13.05.2017 under Section 21 of NDPS Act, registered at Police Station Kalanwali, District Sirsa as well as for setting aside the order dated 14.02.2018 (Annexure P-2), vide which the petitioner was

declared a proclaimed offender in aforesaid FIR.

On 17.04.2018, following order was passed by this Court: -

“Counsel for the petitioner has submitted that the petitioner was not named in the FIR and the petitioner is involved in the present case, later on. The co-accused Jhalvinder Singh @ Jhinda was arrested at the spot, who has made a disclosure statement that he has purchased the recovered 10 gms. heroin from Harjinder Singh and thereafter, Harjinder Singh @ Babbi has made a disclosure statement that he has got the same from the petitioner. It is further submitted that the petitioner has already filed an application for grant of anticipatory bail before the Additional Sessions Judge on 09.02.2018 and during pendency of the same, the impugned order dated 14.02.2018 declaring him as a proclaimed persons was passed without following the proper procedure laid down in Section 82 Cr.P.C. Counsel for the petitioner has also submitted that the co-accused Harjidner Singh @ Babbi has already been granted the concession of anticipatory bail vide order dated 16.08.2017 passed in CRM-M No.21387 of 2017 on the ground that he was involved in the case on the basis of the disclosure statement made by co-accused Jhalvinder Singh @ Jhinda from whom the recovery was effected.

Counsel for the petitioner has further argued that though the petitioner is ready to join the investigation.

Counsel for the State, on instructions from HC Sukhdev Singh, has submitted that the petitioner is involved in two more FIRs i.e. one is under Sections 323 and 324 IPC, in which he is on bail and in one more case under the NDPS Act, in which the recovery is of small quantity and the petitioner is on bail.

Without commenting anything on merits of the case and considering the fact that the order dated 14.02.2018 was passed during the pendency of the anticipatory bail application filed by the petitioner before the Additional Sessions Judge and also in

view of the fact that co-accused Harjinder Singh @ Babbi, on whose disclosure statement, the petitioner is involved in the present case, has already been granted the concession of anticipatory bail, the petitioner is directed to appear before the Investigating Officer on 30.04.2018 at 10:00 am or on any other date or time fixed by him to join investigation and he shall be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

- 1. He shall make himself available for interrogation by a police officer as and when required;*
- 2. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and*
- 3. He shall not leave India without previous permission of the Court.”*

Learned counsel for the petitioner submits that in pursuance of the aforesaid order dated 17.04.2018, the petitioner has joined the investigation and is not required for any further investigation. It is further submitted that the petitioner was declared a proclaimed offender vide order dated 14.02.2018 (Annexure P-2) passed by the JMIC, Dabwali, when his anticipatory bail application was already pending before the Additional Sessions Judge and he is now appearing before the trial Court and is facing the trial.

This fact is not disputed by learned State counsel, on instructions from HC Sukhdev Singh.

In view of the above, both these petitions are allowed. The interim order dated 17.04.2018, vide which the interim bail was granted to the petitioner, is made absolute subject to the conditions envisaged under Section

438 (2) Cr.P.C. and the order dated 14.02.2018 (Annexure P-2), vide which the petitioner was declared a proclaimed offender in the aforesaid FIR, is set aside.

30.05.2018

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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No