

CRM-M-15276-2020

Date of decision : 10.09.2020

SHAMPY SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGIPresent : Mr. Parminder Singh Sekhon, Advocate for
for the petitioner.Mr. Harbir Sandhu, Asstt. A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C') for grant of anticipatory bail in case FIR No. 52 dated 18.04.2020 registered under Sections 21, 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station STF Phase IV, District SAS Nagar (Mohali).

As per prosecution version, on 18.04.2020 police party headed by SI Kuljeet Singh received secret information that accused Sarabjit Singh @ Sonu, Kulwinder Singh and Shampy Singh are indulging in business of sale and purchase of heroin. Shampy Singh will go in his Scorpio car and Sarabjit Singh @ Sonu and Kulwinder Singh will go in Swift Dzire car with heroin in heavy quantity towards village Rohti Channa and Bagrian. FIR was registered on the basis of secret information. Sarabjit Singh @ Sonu and Kulwinder Singh were apprehended with Swift Dzire car and recovery of 800 grams of heroin was made from the car. The petitioner fled from the spot in his Scorpio car which met with an accident on the way on which the petitioner fled by deserting the above said vehicle.

While issuing notice of motion on 16.06.2020, this Court

had granted interim anticipatory bail to the petitioner with direction to join the investigation.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Sukhamrit Singh PPS, Deputy Superintendent of Police, Special Task Force, Patiala through e-mail, print of which it taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated by the police in the case. As per the allegations made in the FIR the police allegedly recovered 800 grams of heroin from possession of co-accused Sarabjit Singh and Kulwinder Singh who were travelling in Swift Dzire Car PB-11-CR-6873. The petitioner was not arrested on the spot and no recovery was made from him. The vehicle of the petitioner was also seized from a different place. The petitioner has been falsely implicated on the basis of alleged secret information and disclosure statements of accused Sarbjit Singh and Kulwinder Singh. The petitioner is not involved in any other case under the NDPS Act. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner has joined the investigation. Nothing is to be recovered from him and his custodial interrogation is not required.

Learned State Counsel, on instructions from SI Kuljeet Kaur, has submitted that in compliance with order dated 16.06.2020 passed by the Coordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, satisfaction by due implication of the conditions of Section 37 (1)(b) of the NDPS Act qua the petitioner and also the fact that investigation and trial are likely to take long time and detention of the petitioner in custody will not serve any useful purpose but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserve the grant of anticipatory bail.

Accordingly, the petition is allowed and order dated 16.06.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation if and as and when again called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

10.09.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No