

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

201

CRM-M-16292-2020

Date of decision : 17.08.2020

Makhan Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

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. 283 dated 24.05.2020 registered under Sections 21 (c) and 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Urban Estate Hisar, District Hisar.

On 24.05.2020 police party headed by ASI Jagdish Chander present near Trikona Park, Nirankari Bhawan Road, Hisar received secret information that accused Sukhwinder Singh @ Sukha and Krishna @ Kuki were involved in sale of heroin and were coming on motorcycle from the side of Dabra Chowk Hisar and will cross through Mahavir Colony Hisar and double crossing road. Information under Section 42 of the NDPS Act was sent to the police station. Accused Sukhwinder Singh @ Sukha and Krishna @ Kuki were apprehended and on search in the presence of Amarjit Kataria, Deputy Superintendent of Police, Hisar, 322.66 gms heroin was recovered from right pocket of jeans of accused Sukhwinder Singh @ Sukha but no contraband was recovered on search of accused Kirshna @ Kuki. FIR was registered. During investigation on their disclosure statement accused Sunil Kumar was arrested who made disclosure statement that

he had purchased 400 gms heroin from Makhan Singh (petitioner) and got remaining 53.63 grams heroin recovered in accordance with his disclosure statement.

While issuing notice of motion on 24.06.2020, the Coordinate Bench of 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. However, no written reply has been filed by the State.

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 was not arrested on the spot and no recovery was made from him. The petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused which is not of any evidentiary value against the petitioner. The petitioner is not involved in any other case under the NDPS Act. 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 ASI Krishan Kumar, has submitted that in compliance with order dated 24.06.2020 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 24.06.2020 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.

17.08.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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