

209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25182-2020 (O&M)
Date of Decision: 10.12.2020

SARADPAL SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. M.S. Narang, DAG, Punjab.

RAJ MOHAN SINGH, J. (Oral)

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

Petitioner seeks grant of anticipatory bail in case bearing FIR No.44 dated 04.04.2019 registered under Section 22 of NDPS Act, 1985 at Police Station Kotwali Bathinda.

On 31.08.2020, following order was passed by the Co-ordinate Bench:-

“Prayer in this petition is for grant of

anticipatory bail to the petitioner in FIR No. 44 dated 04.04.2019, under Section 22 of the NDPS Act, 1985 at Police Station Kotwali Bathinda.

Learned counsel for the petitioner submits that the FIR was registered on receiving an information regarding some suspicious persons and in the meantime, an Etios Liva car, bearing registration No. PB-03-AU-4061, was stopped. The driver of said car was one Rahul Aggarwal and the person sitting on co-driver seat was Surinder Kumar. On the rear seat of car, a plastic bag was found and the aforesaid persons were given a notice and thereafter, DSP (D) was called at the spot and recovery of 53,000 tablets of Tramadol and an amount of Rs. 1,90,000/- was effected.

Learned counsel further submits that the police wants to arrest the petitioner after a period of almost one year and four months only on the ground that aforesaid car is registered in the name of the petitioner, however, his son Gurnirbhey Singh already stands arrested in this case who was using the car.

*Learned counsel further submits that wife of the petitioner, namely Veerpal Kaur, had filed a petition, bearing **CRM-M-39188-2019**, before this Court seeking fair investigation of the case, in which all the facts were highlighted that the son of the petitioner is running a pharmacy business and main accused Rahul Aggarwal is a photographer having a shop next to the shop of the son of petitioner and is a family photographer and that is why, he had borrowed the car from son of the petitioner.*

Learned counsel for the petitioner further submits that petitioner, who is aged about 60 years, is a chronic patient of Tuberculosis and is not actively doing any business. It is further submitted that said car was purchased by the son of petitioner in petitioner's name, which is the only evidence against him.

Learned counsel further submits that it was highlighted in the aforesaid petition that there are no call details of the petitioner with accused persons and the petitioner is not involved in any

other case under the NDPS Act and the said petition was disposed of on 17.09.2019 by passing the following order:

“After arguing the case for some time learned counsel for the petitioner as well as learned counsel representing the State of Punjab have arrived at a consensus.

It is agreed that since the investigation are complete under the supervision of Superintendent of Police and case diary is to be produced before Senior Superintendent of Police for seeking final approval for filing police report, therefore, let Senior Superintendent of Police also independently examine the file and form opinion.

Dispose of.”

Learned counsel further submits that despite a lapse of almost nine months, no further action is taken by the SSP regarding contentions raised by the wife of the petitioner in aforesaid petition and the police now wants to arrest the petitioner.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State and submits that two persons, Rahul Aggarwal and Surinder Kumar, were arrested at the spot and a huge recovery of 53,000 intoxicant tablets and drug money of Rs. 1,90,000/- were recovered from them.

Learned State counsel refers to order dated 18.07.2019 passed in CRM-M Nos. 19770 & 28399 of 2019, vide which anticipatory bail applications of two of the co-accused, namely Harmesh Singh and Gurnirbhey Singh, were dismissed by this Court and thereafter, they were arrested.

*In reply, learned counsel for the petitioner refers to order dated 27.01.2020 passed by this Court in **CRM-M-46517-2019**, vide which one of the co-accused, namely Varinder Kumar, was granted concession of regular bail on the ground that recovery was effected from two persons, Rahul*

Aggarwal and Surinder Kumar, and upon their disclosure, other persons were also nominated in the case.

A perusal of this order shows that the bail was granted after considering the affidavit of SSP, Bathinda, in which it was stated that Harmesh Singh and Gurnirbhey Singh were named as accused on 05.04.2019 after disclosure statement of co-accused Rahul Aggarwal, Sandeep Kumar and Surinder Kumar was recorded wherein it came that they have purchased the intoxicant tablets from one Gurnaib Singh @ Gugni on payment of Rs. 70,000/-.

List again on 10.12.2020.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

*(ARVIND SINGH SANGWAN)”
JUDGE*

Learned counsel for the petitioner submitted that the petitioner has joined the investigation to the entire satisfaction of the Investigating Officer.

Learned State counsel has not disputed the aforesaid fact rather on instructions from ASI Inderjit Singh, submitted that the petitioner has joined the investigation and he is not required for any further investigation in the case.

In view of the incriminating facts recorded in the order dated 31.08.2020 the same is made absolute. However, petitioner shall keep on joining the investigation as and when

required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands disposed of.

December 10, 2020

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)

JUDGE

Yes/No

Yes/No