

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

206

CRM-M-41982-2019

Date of decision: 30.01.2020

Jaswinder Singh @ Pappu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Arun Kaundal, DAG, Punjab for the respondent.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed this 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.139 dated 01.09.2019 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Subhanpur, District Kapurthala.

Vide order dated 15.10.2019, a Coordinate Bench of this Court had granted the interim anticipatory bail to the petitioner with direction to join the investigation.

Learned State counsel has appeared on behalf of the respondent-State and opposed the bail application.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated on the basis of disclosure statement of co-accused and was not present at the spot and nothing was recovered from his possession. Section 37(1)(b) of the NDPS Act is not applicable qua the petitioner. The petitioner was falsely involved in

another case under the NDPS Act but subsequently he has been discharged in that case on the application filed by the police. In compliance with order dated 15.10.2019 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 the investigating officer, has acknowledged that in compliance with order dated 15.10.2019 passed by the Coordinate Bench of this Court, the petitioner has joined the investigation and also conceded that his custodial interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case, the nature of accusation and material against the petitioner, non-applicability of Section 37(1)(b) of the NDPS Act and also the fact that custodial interrogation of the petitioner is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the concession of anticipatory bail.

Therefore, the petition is allowed and order dated 15.10.2019 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when 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.

30.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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