

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-833-2021

Date of Decision: 02.11.2021

Gurnam Singh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. V.B. Godara, Advocate for the petitioner.

Mr. Vishal Malik, DAG, Haryana

ASHOK KUMAR VERMA, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 315 dated 13.12.2020 registered under Sections 21(b) and 27-A of the NDPS Act at Police Station City, Ratia, District Fatehabad.

According to the prosecution, on 13.12.2020, co-accused- Rajender Singh @ Biru was apprehended by the police with conscious possession of 15.20 grams of Heroin. During investigation, in his disclosure statement, Rajender Singh @ Biru, disclosed to the police that the petitioner had supplied him the aforesaid contraband.

On 19.04.2021, when this case was listed for hearing following order was passed by the co-ordinate Bench of this, which reads as follows:

“Learned counsel contends that the petitioner has been

implicated in the instant case by co-accused Rajender Singh @ Biru, who on his arrest on 13.12.2020 was found to be possession of 15.20 grams of heroin and who made a disclosure statement that the heroin had been supplied to him by the petitioner. Learned counsel contends that apart from the aforementioned disclosure statement, there is no other material to connect the petitioner with the commission of offence, besides the petitioner is ready and willing to join the investigation and fully cooperate in the same.

Notice of motion.

Mr. Pawan Kumar Longia, DAG, Haryana accepts notice and requests for time to file reply.

Adjourned to 21.05.2021.

In the meantime, arrest of the petitioner is stayed, till the next date.”

Reply dated 09.06.2021 by way of affidavit of Deputy Superintendent of Police, Headquarter, Fatehabad has also been filed by the respondent-State.

Learned counsel for the petitioner, *inter alia*, contends that petitioner has been falsely implicated in the instant case on the disclosure statement of his co-accused-Rajender Singh @ Biru, which is a very weak type of evidence. Petitioner was not present at the spot. The recovery of contraband effected from co-accused of the petitioner falls under the definition of 'non-commercial' quantity. Apart from the aforesaid disclosure statement, there is no other material to connect the petitioner with the commission of offence.

On the other hand, learned State counsel vehemently opposes the grant of anticipatory bail to the petitioner. He contends that the

petitioner is a habitual offender. He is also involved in another case under the NDPS Act, bearing FIR No. 474 dated 14.07.2020, under Section 21(B) of the NDPS Act, Police Station Sadar Hisar, District Hisar. In the said case, 20 grams of heroin was recovered from co-accused-Satnam Singh and the name of the petitioner came in the disclosure statement. In terms of order dated 19.04.2021 passed by this Court, though the petitioner has joined the investigation, but he has not rendered any assistance to the investigating agency. Therefore, custodial interrogation of the petitioner is necessary to ascertain the true picture of the case.

I have given thoughtful consideration to the submissions of the learned counsel for the parties.

I am not impressed with the submissions of the learned counsel for the petitioner. The co-accused Rajender Singh @ Biru of the petitioner was found in possession of 15.20 grams of heroin. During investigation, it transpired that the petitioner had supplied the said contraband to his co-accused. Furthermore the petitioner has obtained interim stay of his arrest vide order dated 19.04.2021 passed by this Court by misrepresentation and concealment of material fact. In para 13 of the present petition, the petitioner has wrongly stated that no other FIR is pending against him except the present one. He has not revealed the factum of pendency of one more FIR dated 14.07.2020 registered under the NDPS Act. As such the petitioner is not entitled to any relief. Moreover, the petitioner has not assisted the investigating agency when his arrest was stayed and, therefore, his custodial interrogation is very

much necessary.

In view of the above we find no merit in this petition which is accordingly dismissed.

November 02, 2021
MFK

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No