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

CRM-M No.1661 of 2020

Date of Decision:06.08.2021

DEVENDER KUMAR @ BOLI

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. S.S Nain, Advocate for
Mr. Rajesh Nain, Advocate
for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

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

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.510 dated 24.12.2019 registered under Section 22(b) (Section 27-A added later on) Police Station Bhuna, District Fatehabad.

Learned counsel for the petitioner submits that petitioner has been nominated on the basis of disclosure statement of co-accused Suresh Kumar @ Kalia who was arrested with six grams of heroin. He made a disclosure statement that the alleged contraband was allegedly purchased by him from the petitioner.

Notice of motion was issued on 16.01.2020 with the following order:-

“Learned counsel for the petitioner contends that

name of the petitioner came to be disclosed by the co-accused Suresh Kumar @ Kalia, who was apprehended with six grams of heroin. The contraband was allegedly purchased from the petitioner.

Learned counsel further contends that no recovery is to be effected from the petitioner and the petitioner is not involved in any other case. Anticipatory bail has been declined by the Special Judge, Fatehabad on the premise that the petitioner has not joined the investigation. Petitioner was never asked by the Court to join the investigation by granting any interim protection.

Notice of motion for 20.03.2020.

In the meanwhile, petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 24.01.2020 at 11.00 a.m. and in the event of his arrest, he shall be enlarged on ad interim bail, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of Arresting Officer. However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner submits that in compliance of the order dated 16.01.2020, petitioner has joined the investigation to the entire satisfaction of the Investigating Officer.

Learned State counsel on instructions from SI Krishan Kumar admits the aforesaid fact and submits that custodial interrogation of the petitioner is no more required in further investigation of the case. Learned State counsel however, informs the Court that the petitioner is involved in 5 other cases in which one case is under NDPS Act.

Learned counsel for the petitioner submits that the petitioner is on bail in all the criminal cases. Complicity of the petitioner based on disclosure statement of co-accused would remain debatable in view of ratio laid in **Criminal Appeal**

No.152 of 2013 titled **Tofan Singh Vs. State of Tamil Nadu** (in a bunch matter) decided by the Hon'ble Apex Court on 29.10.2020.

In view of aforesaid factual position, the interim order dated 16.01.2020 is made absolute. 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.

06.08.2021
Amandeep

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No