

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

201

CRM-M No.3034 of 2021
Date of decision:01.06.2021

Satpal

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Through the instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No.157 dated 21.08.2020, registered under Sections 22(c), 27-A of Narcotic Drugs and Psychotropic Substances Act, 1985, (for short “the NDPS Act”) at Police Station Bhattu Kalan, District Fatehabad.

FIR, Annexure P-1, was registered after a raid was conducted on the shop of Arvind @ Bablu, who was found in possession of 4800 Tramadol Hydrochloride Sustained Release Tablets Tricore SR and 2400 Tramadol Hydrochloride, Diclofenac Sodium Dicyclomine Hydrochloride & Chlorpheniramine Maleate Capsules Parvorine-Spas, total weighing 4 kilogram 854 grams. He named Satpal (present petitioner) Monu @

Shishpal, Rajesh @ Raja and Narinder as the persons, who had brought the contraband from Rajasthan and supplied it to him.

Counsel for the petitioner has contended that the petitioner has been nominated as an accused on the basis of statement of Arvind @ Bablu from whom recovery was allegedly effected. Placing reliance on case law, he urges that disclosure statement of a co-accused is inadmissible in evidence. He submits that co-accused Monu @ Shishpal has been released on bail pending trial by this Court vide order dated 14.01.2021 passed in CRM-M-36643-2020 and the case of the petitioner is at par with the said co-accused.

Per contra, State counsel upon instructions from ASI Sushil Kumar, submits that huge recovery of contraband has been effected from Arvind @ Bablu, who has named the petitioner and three other accused, all of them have been arrested. As per his instructions, challan against co-accused has been presented on 19.02.2021, whereas the petitioner, who is the kingpin, is evading arrest. He has referred to the bar contained in Section 37 of the NDPS Act and opposed the petition.

I have considered the rival submissions of the parties.

Exceptionally huge quantity of intoxicating tablets have been recovered from the premises of Arvind @ Bablu, who was running a General Merchandize Shop. On inquiry, he voluntarily named the petitioner and the other co-accused as the suppliers. The seized contraband falls within the ambit of commercial quantity and the rigor of Section 37 of the NDPS Act is attracted. Hon'ble Supreme Court in **State of Kerala vs. Rajesh** 2020 (12) SCC 122 has held that Section 37, ibid, commences with a non-obstante clause and unless the twin conditions

laid down therein are satisfied, bail cannot be granted. The first condition is that the prosecution must be given an opportunity to oppose the petition and the second is that the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence. Reasonable grounds have been held to be something more than the prima facie grounds and contemplate substantial probable causes for believing that the accused is not guilty of the alleged offence. However, no facts or material could be provided by the petitioner to justify that he is not guilty of the offence alleged. Mere fact that the co-accused has been released on bail and that too after his arrest, will not advance the case of the petitioner. This Court is of the opinion that custodial interrogation of the petitioner is required to determine his role.

No ground is made out for grant of anticipatory bail to the petitioner.

Petition is accordingly dismissed.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.06.2021
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No