
Nanha v. State of Haryana

Present: Mr. Bhavdeep Singh Mamli, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Case heard via video conferencing.

On January 28, 2021, the following order had been passed by this
court:-

“Case heard by video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.0004, dated 02.01.2021, having been registered at Police Station City Fatehabad, District Fatehabad, alleging therein the commission of an offence punishable under Sections 21(b) of the Narcotics and Psychotropic Substances Act, 1985 (with Section 27-A of the said Act added later).

At the outset, learned counsel for the petitioner submits that at the time when he filed the petition he had been informed that there was only one criminal case pending against the petitioner whereas actually subsequently the petitioner had told him that there is another criminal case also pending against him.

However, he submits on merits that the petitioner having been named only on an alleged disclosure statement made by the person who was found have been carrying 50 grams of heroin (as per the case of the investigating agency), with such statement having been made only before the police, the petitioner deserves to be admitted to bail.

Notice of motion.

On the asking of the Court, Mr. B.S.Virk, DAG, Haryana, accepts notice on behalf of the respondent State.

Adjourned to 18.03.2021.

A copy of the petition be e-mailed to him today itself by learned counsel for the petitioner.

A reply be filed by a gazetted officer, to the petition, giving therein also the details of the other criminal cases registered against the petitioner and the recovery made in those cases.

In the meanwhile, the petitioner would join investigation within one week and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.”

Thereafter, with no reply on behalf of the respondent State having been filed, the hearing of the matter was adjourned till today, with the petitioner directed to provide all mobile numbers used by him to the investigating officer.

A reply on behalf of the respondent State has now also been filed, which is ordered to be taken on record.

Mr. Poswal states there from that as per the said reply no phone calls were found to have been made by the petitioner to the person from whom the recovery of the contraband (50 grams of heroin) was made, but as regards the location as per the mobile phone towers, that report is still awaited.

In view of the fact that the recovery of the contraband from the co-accused of the petitioner (as per the case of the investigating agency) is of non-

commercial quantity and the petitioner has been arraigned as an accused on the

alleged disclosure statement made by his co-accused in police custody, without making any comment on the actual merits of the case, the order passed on 28.01.2021 is made absolute, with learned State counsel having submitted that the petitioner has of course joined investigation.

The petition is allowed.

April 22, 2021
dinesh

(AMOL RATTAN SINGH)
JUDGE