

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-3817-2020 (O&M)
Date of Decision:- 07.12.2021

Imtiaz Ali Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Imran Farooqi, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Harpal.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No. 42, dated 16.4.2019, Police Station City-II, Malerkotla, District Sangrur, under Sections 22/61 of NDPS Act.
2. At the time of issuance of notice of motion the following order was passed on 7.2.2020:

“Petitioner was not arrested from the spot as he had fled away from the spot after throwing polythene bag. Co- ccused was arrested from the spot and 1500 intoxicant tablets were recovered, which according to FSL report contains 'tramadol hydrochloride'.

Notice of motion for 15.04.2020.

In the meanwhile, petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 11.02.2020 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.”

3. Learned counsel for the petitioner has submitted that since he was never arrested at the spot, therefore, no sanctity can be attached to the case of the prosecution as regards his involvement in the instant case.
4. Opposing the petition, learned State counsel has submitted that since the FIR was lodged on the basis of secret information specifically to the effect that Mohd. Halim @ Babbu and Imtiaz Ali (petitioner) indulged in sale of intoxicant tablets and it was pursuant to the receipt of said information that barricading had been held and an Activa scooter was intercepted on which both the accused were travelling, the petitioner does not deserve any relief for grant of anticipatory bail merely on account of the fact that he happened to flee away from the place of recovery. Learned State counsel has however, informed that pursuant to interim directions, the petitioner has joined investigation and is not required for any custodial interrogation and that he is not even wanted in any other case.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner was never arrested at the spot and nor any recovery was effected from him. The case of the prosecution is based on secret information. In these circumstances, it

would be debatable as to whether it is the petitioner indeed who had run away from the spot or that he was accompanying the co-accused who was arrested at the spot. In any case, since the petitioner is stated to have joined investigation and is not required for any custodial interrogation and is not even stated to be involved in any other case, the petition is accepted and the interim directions issued by this Court vide order dated 7.2.2020 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

07.12.2021

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No