

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

205

**CRM-M-7177-2021
Date of decision: 05.08.2021**

MANGJIT SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Avtar Singh Bhatti, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

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

The petitioner has filed the present (First) petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 13 dated 31.01.2020 registered under Sections 22 and 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS') at Police Station Tanda, District Hoshiarpur to which Section 29 of the NDPS Act was added later on.

Vide order dated 16.02.2021 the Co-ordinate Bench of this Court had, while issuing notice of motion, granted interim anticipatory bail to the petitioner with direction to join the investigation and relevant part of the above said order reads as under:

“Learned counsel for the petitioner prays for grant of anticipatory bail to the petitioner while inter-alia arguing that the petitioner has been falsely implicated in the present case and has been nominated as an accused on the basis of disclosure statement of co-accused Gurdeep Singh, who was arrested and later on released

on bail. Counsel would further contend that there is no other case pending against the petitioner under the NDPS Act and he is ready and willing to join the investigation.

Notice of motion.

Ms. Monika Jalota, D.A.G., Punjab accepts notice on behalf of the respondent State and seeks time to file reply.

Adjourned to 05.08.2021.

Meanwhile, petitioner is directed to join the investigation within a period of one week and on doing so, the petitioner be released on interim bail to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions incorporated under Section 438(2) Cr.P.C “

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner was not apprehended on the spot and no recovery was made from him. The petitioner had no concern with co-accused-Gurdip Singh and was not involved in commission of the alleged offence and he has been falsely implicated in the case on the basis of alleged disclosure statement of co-accused-Gurdeep Singh. There is no other material against the petitioner except the disclosure statement of co-accused which would not be of any substantive evidentiary value. The petitioner is not involved in any other case under the NDPS Act. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. In compliance with order dated 16.02.2021 passed by the Co-ordinate Bench, the petitioner has joined the investigation and his custodial interrogation is not required in the case. Therefore he may be granted anticipatory bail.

Learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the

petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Pargat Singh, acknowledged that in compliance with order dated 16.02.2021 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation is not required in the present case.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, who has been implicated in the case on the basis of disclosure statement of co-accused, the fact that he is not involved in any other case under the NDPS Act, inapplicability or satisfaction by due implication of rigors of Section 37(1) (b) of the NDPS Act and also the fact that there is no material to justify the apprehension of the petitioner fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves grant of anticipatory bail.

Accordingly, the petition is allowed and order dated 16.02.2021 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall comply with the conditions enumerated under Section 438(2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the NDPS Act after his release on anticipatory bail. In case of non-compliance of

the above-said conditions, the petitioner shall not be entitled to the protection of anticipatory bail allowed to him.

05.08.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No