

CRM-M-7069-2020 (O&M)

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

**CRM-M-7069-2020 (O&M).
Decided on: October 29, 2021.**

Chatar Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Gurdarshan S. Sidhu, Advocate,
for the petitioner.**

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for the grant of anticipatory bail in FIR No.29 dated 5.2.2020, under Section 22 of the Narcotics Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sardulgarh, District Mansa.

Learned counsel for the petitioner has submitted that it is a case where the present FIR has been planted upon the petitioner and no

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recovery was effected from the petitioner and rather as per the allegations, a packet was hanging on tree which allegedly contained 600 tablets of tramadol and the petitioner was neither caught on the spot nor he was there. He has further submitted that the petitioner is not involved in any other case and has clear antecedents. He has further submitted that there is no sufficient evidence available with the prosecution to connect the petitioner with the present case apart from the fact that some contraband was found hanging on the tree and the petitioner not was even near the place.

On 17.2.2020, notice of motion was issued and the petitioner was granted interim protection by this Court.

Today learned State counsel, on instructions from ASI Amrik Singh, has stated that in pursuance of the order passed by this Court on 17.2.2020, the petitioner has already joined investigation and has fully cooperated with the investigation process and is not required for custodial investigation. He has further submitted that after completion of investigation challan has also been presented. He has further submitted that it is correct that the petitioner is not involved in any other case. Since the involvement of contraband falling in commercial quantity is concerned, the bar contained under Section 37 of the NDPS Act, has to be considered. On a specific query being put to the learned State counsel as to whether there is any material available with the prosecution to connect the petitioner with the present case, at this stage, he has not been able to justify the same. Therefore, at this stage, for the purpose of considering the petitioner for the grant of anticipatory bail, there are reasons to believe that the petitioner is

not guilty. Since the petitioner is not involved in any other case and it is not the case of the State that in case the petitioner is granted anticipatory bail then he may influence any witness or tamper with evidence or may flee from justice, therefore, at this stage, the second ingredient of Section 37 of the NDPS Act is also satisfied and the bar contained under Section 37 of the NDPS Act would not apply. Furthermore, it is the case of the state that the petitioner is not required for custodial investigation.

In view of above, the present petition is allowed. Interim order dated 17.2.2020 is hereby made absolute.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

October 29, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No