

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

CRM-M No.10696 of 2021 (O&M)

Date of Decision:-17.11.2021

Mushtak

.....Petitioner.

Versus

State of Haryana

.....Respondent.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Khalid, Advocate
for the petitioner.

Mr. Apoorv Garg, D.A.G, Haryana.

MEENAKSHI I. MEHTA, J. (Oral)

Apprehending his arrest in the criminal case arising out of the FIR bearing No.110 dated 23.02.2020 registered at Police Station City Sohna, District Gurugram, under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act'), the petitioner has preferred this petition for seeking the relief of anticipatory bail.

It is worth-while to mention here that vide the order dated 08.03.2021 passed by the co-ordinate Bench, the petitioner had been extended the relief of interim bail with the direction to join in the investigation within a period of one week and to continue to join in the same as and when called upon to do so and to abide by all the conditions as

laid down in Section 438(2) Cr.P.C.

Learned State counsel, on the instructions from SI Om Parkash of the above-said Police Station, apprises the Court that though the petitioner joined in the investigation but he is involved in another criminal case registered at Police Station Nuh vide FIR No.572 of 2013, under Section 20 of the NDPS Act.

Bereft of unnecessary details, the allegations, as levelled in the present case, are that the co-accused of the petitioner named Mubin and Tahir were arrested by the police and total 28.830 Kgs. ‘*Ganja*’ was recovered from their possession and they suffered disclosure statements mentioning therein that they had purchased the said contraband from the petitioner.

Learned counsel for the petitioner contends that the petitioner was not even present at the spot at the time of the alleged recovery of the contraband and he has been falsely roped in as an accused in this case on the basis of the disclosure statements as allegedly suffered by his said co-accused and in these circumstances, he deserves the relief as prayed for in this petition.

Per contra, learned State counsel argues that the quantity of the contraband, as recovered in the case, falls within the category of “commercial quantity”, and thus, the provisions of Section 37 of the NDPS Act would be applicable and in view thereof, the present petition is liable to be dismissed.

The evidentiary value of the disclosure statements, as

allegedly suffered by the above-named co-accused of the petitioner, can and shall be looked into by the trial Court at the appropriate stage after appreciating and evaluating the entire evidence that would be led on the record during the course of the trial. At the moment, the fact remains that the quantity of ‘*Ganja*’, as allegedly recovered in the present case, falls within the category of “commercial quantity” attracting the rigors of Section 37 of the NDPS Act. Moreover, the FIR was registered on 23.02.2020 and it has categorically been observed by the Court below in para 6 of the order Annexure P-4 that the proclamation, as envisaged under Section 82 Cr.PC, had been issued against the petitioner as he could not be arrested and has, rather, been evading his arrest.

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he does not deserve the relief of anticipatory bail.

Resultantly, the petition in hand stands dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

November 17, 2021
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*