

CRM-M-13391-2021

Date of Decision: 16.11.2021

Vijay Kumar

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Amandeep Singh Samra, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

On 23.09.2021, the following order had been passed by this court:-

*“Case heard via video conferencing.**By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.22, dated 2.3.2021, having been registered at Police Station City Dhuri, District Sangrur, alleging therein the commission of offences punishable under Sections 22 and 29 of the NDPS Act, 1985.**Pursuant to previous orders passed, finally the affidavits of the SSP, Sangrur, dated 14.9.2021, as also of the DSP (Detective), Sangrur, dated 28.8.2021, have been filed by the respondent-State, which are ordered to be taken on record.**The affidavit of the SSP states that the petitioner was named by his co-accused, Amandeep Kaur, who was arrested with commercial quantity of tramadol hydrochloride (as per the case of the investigating agency) and that she had disclosed to the police that the petitioner is the person who had sold the contraband to her @ Rs.3200/- per box of 500 tablets.*

Learned counsel for the petitioner submits that the petitioner is a young student and is not involved in any other crime, for any inference to be made that he may have been involved in the commission of the present offence also.

Upon a query put to him as to how then the police would even know the petitioners' name to falsely implicate him in the FIR, he submits that Amandeep Kaur may have falsely named him only because of some enmity between her and the petitioners' father.

Though whether that story should be believed or not is obviously a matter of great speculation, yet in the aforesaid circumstances, with Amandeep Kaur also having been admitted to bail by the learned Judge Special Court, Sangrur, on 22.4.2021 (under the provisions of Section 439 of the Cr.P.C.), the petitioner is directed to join investigation within one week and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate, with this court prima facie expressing a possible doubt as regards his involvement in view of what has been contended, and thereby allowing him to be admitted to interim bail in terms of the provisions of Section 37 (1)(b) (ii) of the NDPS Act, 1985.

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

If the investigating officer does not actually 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 him in investigation, in terms of the order of this court.

Adjourned to 16.11.2021.”

Today, learned State counsel reiterates that the petitioners name having been disclosed by the person who was arrested at the spot with a large quantity of contraband on her, he does not deserve to be admitted to bail.

However, upon query to him as to whether the order admitting Amandeep Kaur @ Aman to bail by the learned Judge, Special Court, Sangrur, has been appealed against/challenged, he submits that as per his instructions the said order has not been challenged, nor has cancellation of bail been sought.

That being so, with the person who is alleged to have been apprehended with the contraband having been admitted to bail, (though under the provisions of Section 439 and not 438 of the Cr.P.C. but with the bar under the provisions of Section 37 of the NDPS Act, applying in either case), I would see no reason to deny the same concession to the petitioner, even though this is a petition filed under the provisions of Section 438 of the Cr.P.C.

Hence, in view of the fact that the petitioner is only alleged to have been named as a person from whom contraband was allegedly brought, with such alleged disclosure having been made in police custody, without making any comment on the actual merits of the case, even in terms of Section 37 (i) (b) (ii) of the NDPS Act, 1985, the petition is allowed and the order dated 23.09.2021 made absolute, on the same terms and conditions.

November 16, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.