

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-18544-2021

Date of decision: 13.05.2021

Sushil Kumar**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Deepak Choudhary, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 343 dated 03.08.2020, registered under Section 20 of the NDPS Act, 1985 at Police Station Narnaud, District Hansi.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police party received a secret information from an informer that one Jagdish @ Jagga is carrying *Ganja* in a plastic bag in front of his house and he is ready to sell it. Upon this, a notice under Section 42 of the NDPS Act was prepared and sent to the SHO of the police station concerned and thereafter, the police party reached the house of aforesaid Jagdish @ Jagga and after following the procedure and giving a notice under Section 50 of the NDPS Act, recovery of 18 kgs. of *Ganja* leaves was effected, which was in a plastic bag.

It is further submitted that during investigation, the police recorded successive disclosure statements of co-accused Sanjay and Vikram @ Vicky and the name of the petitioner surfaced in disclosure of one of the aforesaid co-accused.

Learned counsel further submits that petitioner is a first offender and he is not involved in any other case.

Notice of motion.

Mr. Sumit Jain, Addl. A.G., Haryana, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State and submits that anticipatory bail applications of co-accused Vikram @ Vicky and Sanjay stand dismissed by the Additional Sessions Judge by passing separate orders, however, it could not be disputed that petitioner is not involved in any other case under the NDPS Act.

Learned counsel further submits that since the petitioner was nominated later on, it will be a debatable matter during the course of trial whether the same is admissible in view of judgment rendered by Hon'ble Supreme Court in the case of *Tofan Singh vs. State of Tamil Nadu, 2013 (9) SCR 962*.

After hearing learned counsel for the parties, without commenting on the merits of the case, considering the fact that petitioner is not involved in any other case under the NDPS Act and also in view of the ratio of law laid down by Hon'ble Supreme Court in *Togan Singh's* case (supra), the present petition is allowed and the petitioner is granted concession of anticipatory bail, subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioner to join investigation, if required, by issuing him a written notice in this regard.

13.05.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No