

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

**CRM-M-18921-2021  
Date of decision: 13.05.2021**

**Shubham Kumar @ Shubi**

**...Petitioner**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. V. B. Godara, Advocate  
for the petitioner.

**ARVIND SINGH SANGWAN, J. (Oral)**

The petitioner prays for grant of anticipatory bail in FIR No. 75 dated 10.03.2021, registered under Section 21 of the NDPS Act, 1985 at Police Station Sadar Sirsa, District Sirsa.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police party apprehended two persons, namely Manish Kumar and Bal Kishan on suspicion and recovered 05 grams of Heroin each from them i.e. total 10 grams.

Learned counsel further submits that the petitioner was later on nominated on the disclosure of aforesaid co-accused and 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*.

Learned counsel further submits that though the petitioner is involved in five other FIRs, however, none of them relates to any offence punishable under the NDPS Act and the said FIRs are under the provisions of IPC and there is no major allegation against the petitioner.

Learned counsel further submits that recovery, effected from the co-accused, was of only 05 grams each, which may be for their personal consumption and not for the purpose of selling it to a third party.

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 on instructions from SI Jaswinder Singh, submits that both the aforesaid co-accused, who were arrested at the spot, have been granted concession of regular bail as the recovery was of small quantity.

After hearing learned counsel for the parties, without commenting on the merits of the case, considering the fact that petitioner is not a previous offender under the NDPS Act and the recovery is of only 05 grams of Heroin each from the co-accused, on whose disclosure the petitioner was nominated in the present FIR, 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*

*Yes/No*

*Whether reportable*

*Yes/No*