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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.24712 of 2021 (O&M)

Date of decision: 01.07.2021

Ashish

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Saneta, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.110 dated 11.06.2021 registered under Sections 25, 15(b) of the NDPS Act at Police Station Saha, District Ambala.

Counsel for the petitioner has argued that as per the allegations in the FIR, it is stated that the Investigating Officer received a secret information that the co-accused Baldev Singh @ Lalli is running a Dhaba and is indulged in the business of selling intoxicant substance. It was further stated that he was coming on his motorcycle carrying the intoxicant substance in a bag. Upon this, a notice under Section 42 of the NDPS Act was sent to the Police Station and a raid was conducted. The co-accused Baldev Singh @ Lalli was apprehended with a plastic bag on his motorcycle and upon search, it was found containing 26.120 Kgs of poppy husk. It is further submitted that later on in the disclosure statement, the said accused stated that he has purchased the same from the petitioner for selling it to the truck drivers.

It is also submitted that the petitioner on an earlier occasion was

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involved in 02 cases under the Excise Act and the NDPS Act but he was acquitted in the case registered under the NDPS Act and he is not facing trial in any other case.

Counsel for the petitioner has referred to the judgment passed by the Hon'ble Supreme Court in ***“Tofan Singh vs State of Tamil Nadu”***, 2013(4) RCR (Criminal) 631, to submit that it will be a debatable issue whether the disclosure statement made by the co-accused will be admissible against the petitioner or not.

Notice of motion.

Ms. Tanushree Gupta, DAG, Haryana who is present in the Court accepts notice on behalf of the respondent – State and has not disputed the factual position that the name of the petitioner was surfaced in the disclosure statement of the co-accused.

After hearing the counsel for the parties, considering the fact that the name of the petitioner was not there in the secret information as only the co-accused Baldev Singh @ Lalli was named and he was apprehended at the spot along with the poppy husk and subsequently, the name of the petitioner surfaced in the disclosure statement of the co-accused and in view of the judgment passed by the Hon'ble Supreme Court in ***“Tofan Singh's case (supra)”***, this petition is allowed and the petitioner is directed to join investigation within a period of 10 days and he shall be released on interim bail subject to the following conditions:-

- 1. He shall make himself available for interrogation by a police officer as and when required;*
- 2. He shall not directly or indirectly make any inducement, threat or promise to any person*

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acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

3. *He shall not leave India without previous permission of the Court.*

**(ARVIND SINGH SANGWAN)
JUDGE**

01.07.2021
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No