

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

201

CRM-M-21124-2020

Date of decision: 12.01.2021

Sukhpreet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Rana Harjasdeep, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.83 dated 22.05.2020 registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS") at Police Station Civil Lines, Bathinda to which Section 29 of the NDPS Act has been added lateron.

The petitioner was granted anticipatory bail vide order dated 27.08.2020/01.10.2020 by this Court with direction to join the investigation.

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner was not arrested on the spot and no recovery was made from him. The petitioner has been falsely implicated in the case on the basis of disclosure statement made by his co-accused Lakhvir Singh @ Nihala from whose possession recovery of 150 grams of opium was made. The co-accused has wrongly made a statement that he purchased the contraband from the petitioner whereas the petitioner has never indulged in NDPS cases. The disclosure statement of the co-accused has no evidentiary value. The petitioner has nothing to do with the alleged recovery. Rigors of Section 37(1)(b) of the NDPS are not applicable qua the petitioner. In compliance with order dated 27.08.2020/01.10.2020, the petitioner has joined the investigation.

On the other hand, learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Mukhtiar Singh, acknowledged that in compliance with order dated 27.08.2020/01.10.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to

justify the apprehension of the petitioner fleeing from justice or tempering with evidence or criminally intimidating the prosecution witnesses but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 27.08.2020/01.10.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall comply with the conditions enumerated under Section 438(2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the NDPS Act after his release on anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of anticipatory bail allowed to him.

12.01.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No