

Jagbeer alias Jaggi

.....Petitioner

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGHPresent: Mr. Amit Chaudhary, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conference.

On July 07, 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' under the provisions of Section 438 Cr.P.C., upon FIR No.133, dated 24.06.2021, having been registered at Police Station Sadar Ratia, District Fatehabad, alleging therein the commission of offences punishable under the provisions of Sections 15/27-A/61/85 of the Narcotics and Psychotropic Substances Act, 1985.

Learned counsel for the petitioner submits that the petitioner has been wholly falsely implicated on an alleged disclosure statement made in the police custody by his co-accused with no recovery at all effected from even the petitioners' house etc. thereafter and consequently, with even only 11.40 kgs. of *doda*/poppy straw having been recovered from his co-accused (as per the case of the investigating agency), which is well below commercial quantity of above 50 kgs, the petitioner deserves to be admitted to bail.

He further submits that there is no other criminal case registered against him.

Notice of motion.

On the asking of the Court, Mr. Neeraj Poswal, AAG, Haryana, accepts notice on behalf of the respondent State.

A copy of the petition be e-mailed to him today itself by learned counsel for the petitioner.

In the aforesaid circumstances, without making any comment on the actual merits of the aforesaid, the petitioner is directed to join investigation within one week and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

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

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 16.08.2021.”

Today, learned State counsel submits, on instructions from ASI Sajjan, that the petitioner has joined investigation but is not co-operating in as much as he is not disclosing as to from where he obtained the contraband in question as is stated to have been recovered from his co-accused Amritpal as per the FIR.

In the opinion of this court such a statement being given by the petitioner would obviously amount to implicating himself and therefore, he cannot be compelled to make any such statement.

Consequently, without making any comment whatsoever on the actual merits of the case, but the petitioner having been arraigned as an accused in the FIR only on basis of an alleged disclosure statement made in police custody by the aforesaid Amritpal (as per the case of the investigating agency), and with no recovery at all made from the petitioner himself, in my opinion the doubt cast on the petitioners' involvement (only at this stage for the purpose of this petition), would entitle him to bail even in terms of such clause (ii) of clause (b) of Section 37(1) of the NDPS Act, 1985.

Consequently, without making any comment whatsoever on the merits of the case, this petition is allowed, with the order dated July 07,2021, admitting the petitioner to interim bail, made absolute, on the same terms and conditions.

August 16, 2021

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No