

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

103

CRM-M-27736-2021

Date of Decision : July 19, 2021

GANESH SINGH ALIAS GANESHI

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Kamal Narula, Advocate for the petitioner.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.91 dated 1.6.2021 under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station, Vairo Ke, District Fazilka.

The learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case and nothing was recovered from the petitioner and, therefore, he may be considered for the grant of anticipatory bail. He has submitted that co-accused, namely, Jaspal Singh @ Babbu was apprehended and there was an alleged recovery of 50 grams of Heroin which does not fall in the commercial quantity.

On the other hand, Mr. Randhir Singh Thind, learned DAG, Punjab on instructions from ASI Pritpal Singh has stated that the petitioner has concealed material facts from this Court. He has not

disclosed that the petitioner was earlier also involved in FIR No. 6 dated 23.1.2019 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, Police Station Armiwala and the trial of the same is pending and in that case also there was recovery of 10 grams of Heroin. He submitted that even if at the spot the recovery was effected from other co-accused Jaspal Singh but so far as the petitioner is concerned, he had infact fled away from the spot. Therefore, that cannot itself become a ground for the grant of anticipatory bail to the petitioner. He submitted that the custody of the petitioner is required as the area is a border area and the recovery pertains to Heroin and the source of the said Heroin is yet to be determined. He further submitted that the petitioner is absconding for the last more than 1½ months and, therefore, opposed the grant of anticipatory bail to the petitioner.

I have heard the learned counsels for the parties.

The petitioner has not disclosed in his petition that he is involved in any other case under the NDPS Act which also pertains to recovery of Heroin. It was the duty of the petitioner to have disclosed the material facts before this Court. So far as the argument raised by the learned counsel for the petitioner that he was not apprehended at the spot, the same would also be not sustainable in view of the fact that as per the prosecution story, he has fled away from the spot. The matter pertains to recovery of Heroin and the area falls in the village which is a border village according to the learned State counsel. The argument raised by the learned State counsel that the custodial investigation of the petitioner is required to ascertain and to dig out the truth of the said Heroin as to

what was the source of the Heroin and the matter was, therefore, very sensitive in nature, this argument does carry some weight.

Therefore, considering the gravity of the allegations of the present case and considering the totality of circumstances of the present case, I do not deem it fit and proper to interfere in the present case for the grant of anticipatory bail.

Consequently, the present petition is, hereby, dismissed.

July 19, 2021
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No