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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27352-2020
Date of decision-31.08.2021

OMKAR SINGH @ OMA

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr. DAG, Punjab.

MANOJ BAJAJ, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.76 dated 20.08.2020 under Sections 22, 25 & 29 NDPS Act 1985, registered at Police Station Sadar Raikot, District Ludhiana (Rural). The petitioner apprehended his arrest at the hands of Police, in the above FIR.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 11.09.2020, whereby, while issuing notice of motion to respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Present petition has been filed under Section 438 Cr.P.C. For the grant of anticipatory bail to the

petitioner in respect of FIR No.76 dated 20.08.2020, under Sections 22, 25 and 29 of the NDPS Act, 1985, registered at Police Station Sadar Raikot, District Ludhiana (Rural).

Learned counsel for the petitioner argues that the petitioner has been roped in the present FIR on the basis of the disclosure statement of his cousin Rajwinder Singh @ Raji, who was apprehended by the police with 2000 tablets of Clovidol having Tramadol. Learned counsel for the petitioner submits that there is a dispute going on between the petitioner and said Rajwinder Singh @ Raji and to prove the said fact, the petitioner has attached a Panchayat compromise dated 05.08.2020 (Annexure P/2), which is approximately 15 days before the main accused Rajwinder Singh @ Raji was arrested with the contraband. Learned counsel further submits that petitioner has been involved by the main accused due to the rivalry and the dispute which is going on between the petitioner and the main accused and the petitioner has no connection at all with the said contraband and no recovery has been done from the petitioner and petitioner is not involved in any other case.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel very fairly concedes that the petitioner has only been roped in the present FIR on the basis of disclosure statement of the main accused, namely, Rajwinder Singh @ Raji and no recovery has been effected from the petitioner and the petitioner is also not involved in any other case under the NDPS Act.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, it is conceded that the petitioner has been nominated on the basis of the disclosure statement of co-accused, namely, Rajwinder Singh @ Raji from whom the contraband was recovered and the petitioner has also ensure to this Court that there was a dispute going on between the petitioner and the main accused and a compromise was reached between the parties in the Panchayat 15 days before the incident, the said angle cannot be ignored at this stage. The disclosure statement of main accused is yet to be proved during the trial. Once, no recovery has

been effected from the petitioner and the petitioner is not involved in any other case, petitioner has made out a case for the grant of anticipatory bail.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions :

(i) That he shall make themselves available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.

Adjourned to 23.11.2020.

It is, however, made clear that after the petitioner joins the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the Police and joined the investigation. According to him, the petitioner cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel who is assisted by ASI Gursewak Singh does not dispute this fact that the petitioner has joined the investigation and he is not required for custodial interrogation for the time being. He further states that final report also stands filed.

Considering the above, the petition is allowed and the interim

bail granted by this Court vide order dated 11.09.2020 is made absolute.

(MANOJ BAJAJ)
JUDGE

31.08.2021

<i>Vipin kumar</i>	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No