

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-33650-2021

Date of decision : 13.12.2021

Tarsem Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Janak Singh Bhinder, Advocate
for the petitioner.

Ms.Bhavna Gupta, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.65 dated 10.07.2021 registered under Sections 22/29/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short “NDPS Act”) at Police Station Chhajli, District Sangrur.

On 19.08.2021, this Court was pleased to pass the following order:-

“It is inter alia contended that no recovery has been made from the petitioner and the petitioner has been implicated only on the basis of the disclosure statement of the co-accused. It has further been submitted that even the said co-accused has been released on interim bail vide order dated 13.08.2021 passed by the Special Court, Sangrur after taking into consideration the fact that the report of the chemical examiner has not been

received. It has also been submitted that the petitioner is not involved in any other case. Further reliance has also been placed upon the order passed by Coordinate Bench of this Court in CRM-M-12051-2020 “Mewa Singh Vs. State of Punjab” and CRM-M-12997-2020 “Daljit Singh Vs. State of Haryana”.

Notice of Motion.

On advance notice, Mr. Saurav Khurana, Deputy Advocate General, Punjab appears and accepts notice on behalf of the State and prays for an adjournment for filing the status report.

Adjourned to 03.11.2021.

In the meantime, the petitioner is directed to appear before the Investigating Officer to join the investigation and in the event of arrest, he be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. He shall also continue to join the investigation as and when called upon to do so and shall abide by conditions as envisaged under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has joined investigation and has further submitted that as per the FSL report, the weight of the tablets recovered is 153 grams which would come within non-commercial quantity.

Learned State counsel has opposed the petition for anticipatory bail and has submitted that although the petitioner has joined investigation in pursuance of the order dated 19.08.2021 but the petitioner is also involved in one more case under the Excise Act and there are some call details also between the petitioner and the other co-accused.

Learned counsel for the petitioner, in rebuttal, has relied upon

Rashadi vs. State of U.P. and another”, reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Keeping in view the above said facts and circumstances moreso, no recovery has been made from the petitioner and even the recovery from the co-accused is of non-commercial quantity and the petitioner is not involved in any other case under the NDPS Act, the present petition is allowed and the order dated 19.08.2021 is made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

December 13, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No