

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

(207)

CRM-M-36004-2021.
Date of Decision:-08.11.2021.

Mohd. Tanvir

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sumeet Puri, Advocate for the petitioner.

Mr. A.K. Kaundal, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.104 dated 03.08.2021 under Sections 22, 29, 61, 85 of NDPS Act, 1985, registered at Police Station City-I, Malerkotla, District Sangrur.

On 02.09.2021, this Court was pleased to pass the following order:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.104 dated 03.08.2021 registered under Sections 22, 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City-I, Malerkotra, District Sangrur.

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Learned counsel for the petitioner inter alia contends that the alleged recovery is from co-accused namely Wasim Iqbal and Mohammad Nisar who in turn had also not named the petitioner in their disclosure statement and had only named one Aslam Parvez, who was stated to be the seller of the said intoxicant. It is further submitted that as per the prosecution case, it is the disclosure statement of the said Aslam Parvez where he had stated that he used to sell the intoxicant tablets to the petitioner. The argument of the learned counsel is that even as per the same, the petitioner is not stated to be the seller and even the statement of co-accused namely Aslam Parvez is not with respect to the present recovery. It is also submitted that the petitioner is not involved in any other case.

*Learned counsel for the petitioner has relied upon an order passed by Coordinate Bench of this Court dated 17.06.2020 in CRM-M-12051-2020 titled “**Mewa Singh Vs. State of Punjab**”, order dated 16.07.2021 passed in CRM-M-12997-2020 titled “**Daljit Singh Vs. State of Haryana**”, and order dated 07.10.2015 passed in CRM-M-25433-2015, titled “**Dharamveer and another Vs. State of Punjab**”, to contend that in such like cases if a person has only been proceeded against on the basis of disclosure statement of co-accused and no recovery has been effected from the petitioner, then he should be granted the benefit of anticipatory bail.*

Notice of motion.

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On the asking of the Court, Ms. Bhawna Gupta, DAG, Punjab, appears and accepts notice on behalf of State of Punjab and seeks time to get instructions.

Adjourned to 08.11.2021.

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

Learned counsel for the petitioner has submitted that in pursuance of the above order, the petitioner has joined the investigation.

Learned State counsel has submitted that the petitioner has joined the investigation.

Keeping in view the above-said facts and circumstances, moreso, the fact that no recovery has been made from the petitioner and even the persons from whom the recovery was made, had not disclosed the name of the petitioner and it is only on the basis of disclosure statement of co-accused, namely, Aslam Parvez, to the effect that the petitioner used to purchase the same and there was no allegation that the petitioner used to sell the intoxicant tables, the petitioner has been involved in the present case and also in view of the law laid down in the case of **Mewa Singh Vs. State of Punjab**, **Daljit Singh Vs. State of Haryana** and **Dharamveer and another Vs. State of Punjab** (referred vide order dated 02.09.2021, which is reproduced hereinabove), the present petition for grant of anticipatory

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bail to the petitioner is allowed and the interim order dated 02.09.2021 is made absolute.

However, nothing stated above shall be construed as a final 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 application.

(VIKAS BAHL)
JUDGE

November 08, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No