

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(227)

CRM-M-36213-2021

Date of Decision : November 15, 2021

Rahul

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Ramandeep Kaur, Advocate, for
Mr. Rashpinder Singh Sohi, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No.302 dated 05.08.2021 registered under Section 21/61/85 of NDPS Act at Police Station City Kotwali, District Patiala.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 07.09.2021. Order dated 07.09.2021 is as under:-

“Present Petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.302 dated 05.08.2021 registered under Section 21/61/85 of NDPS Act at Police Station City Kotwali, District Patiala.

On the last date of hearing, the following order was passed:

“Learned counsel appearing for the petitioner argues

that the petitioner has wrongly been involved in the present FIR as the recovery of the contraband has been done from co-accused Sunny and not from the petitioner. Learned counsel for the petitioner further argues that even in the disclosure statement of the co-accused Sunny, one Rinku s/o Rai Pal has been nominated as an accused, whereas, the police is inferring that the said Rinku s/o Rai Pal is the petitioner but, actually the petitioner is Rahul s/o Raj Pal. Learned counsel for the petitioner submits that there is a confusion qua the identity of the nominated accused.

Learned State counsel on instructions from S.I. Mewa Singh submits that in the disclosure statement of the co-accused Sunny he has stated that Rinku s/o Rai Pal is his Massi's son, who was helping him out and as the present petitioner Rahul s/o Raj Pal is the Massi's son of the co-accused Sunny, there is no confusion qua the identity of the nominated accused.

Learned counsel for the petitioner seeks some time to verify whether the present petitioner is the Massi's son of the co-accused Sunny or not.

Adjourned to 07.09.2021.”

Learned counsel appearing on behalf of the petitioner submits that the petitioner is not related to the co-accused Sunny and, therefore, this is a case of mistaken identity and the petitioner is being involved in the present case wrongly. Learned counsel submits that the petitioner is ready to co-operate with the investigation after joining the same and convince the Investigating Authority that the petitioner is not the one, who was described as co-accused by Sunny, from whom the contraband was recovered.

Notice of motion.

Mr. Sandeep Singh Deol, 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 counsel for the State submits that the co-accused Sunny, apart from naming Rinku, his Massi's son as co-accused also gave address of the co-accused and it was the petitioner, who was leaving at the said address at one given point of time, therefore, there is no confusion qua the identity of the petitioner.

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

Keeping in view the facts narrated hereinbefore at this stage, it will be suffice for the purpose of investigation in case the petitioner is directed to join the investigation as he has undertaken to cooperate with the investigation so that the truth not only about the allegations but also about the identity of petitioner and whether the petitioner is the one, who was named by the co-accused Sunny in his disclosure statement could be ascertained.

Petitioner is directed to join and cooperate in 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 himself 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.

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It is, however, made clear that after the petitioner join 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 State counsel, who has also joined the proceedings through video conference, on instructions from SI Mewa Singh, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

In view of the above, the order dated 07.09.2021 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

November 15, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No