

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

CRM-M-37315-2021

Date of decision : 24.11.2021

Rishpal Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.D.S.Virk, Advocate
for the petitioner.

Mr.Sarabjit Singh, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is the first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.50 dated 23.06.2021 registered under Sections 21/29/61/85 of the NDPS Act, 1985 at Police Station Khanauri, District Sangrur.

On 09.09.2021, this Court had passed the following order:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.50 dated 23.06.2021 (Annexure P-1) registered under Sections 21/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Khanauri, District Sangrur.

Learned counsel for the petitioner inter alia contends that the recovery is not made from the petitioner and the petitioner is sought to be implicated only on the basis of statement of co-accused namely

Jatinder and Gurwinder from whom the alleged recovery of 20 grams of heroin has been made. It is further submitted that even the said recovery is of non-commercial quantity.

Learned counsel for the petitioner has also stated that although, the petitioner has been involved in earlier cases also but in those cases, he has been acquitted. Reference in this regard has been made to para 13 of the petition.

*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**”, and an order of this Court dated 16.07.2021 passed in **CRM-M-12997-2020** titled as “**Daljit Singh Vs. State of Haryana**” 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.

On asking of the Court, Mr. Karanbir Singh, AAG, Punjab, appears and accepts notice on behalf of State of Punjab and seeks time to get instructions.

Adjourned to 24.11.2021.

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 State is also directed to file reply, moreso with respect to the aspect as to whether there is any call between the petitioner and other co-accused.”

Learned counsel for the petitioner has submitted that in pursuance to the said order, the petitioner has joined the investigation.

Learned State counsel has submitted that on the last date, the State had to verify as to whether there was any call between the petitioner and other co-accused. It is submitted that there was no call between the petitioner and Jatinder Singh and Gurwinder Singh from whom the recovery has been effected but there was call between the petitioner and co-accused Umesh Kumar, from whom no recovery has been effected and who has also been named as accused on the basis of disclosure statement of co-accused.

Keeping in view the above said facts and circumstances, more so the fact which has been noticed in the order dated 09.09.2021 and also the fact that there was no call between the petitioner and Jatinder Singh and Gurwinder Singh from whom the recovery has been effected and also the fact that the petitioner has joined investigation, the present petition for anticipatory bail is allowed and interim order dated 09.09.2021 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

November 24, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No