

CRM-M-37592-2021

Date of Decision: 22.11.2021

Dilbag Masih

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ravinder Kaur Manaise, Advocate,
for the petitioner.

Mr. M.S. Nagra, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

On 10.09.2021, the following order had been passed by this
court:-

“Case heard by way of video conferencing.

*By this petition, filed under the provisions of
Section 438 of the Cr.P.C, the petitioner seeks the
concession of anticipatory bail, upon FIR no.67, dated
24.06.2021, having been registered at Police Station
Shri Hargobindpur, Police Station Batala, District
Gurdaspur, alleging therein the commission of offences
punishable under Sections 22 and 29 of the NDPS Act.*

*Learned counsel for the petitioner submits
that the petitioner has been implicated only on a
disclosure statement allegedly made by his coaccused,
i.e. his son Raja, in police custody, with him having been
apprehended (as per the investigating agency) allegedly
with 150 intoxicant tablets.*

*It is to be noticed that the petitioner had
earlier filed a similar petition before the learned Judge,*

Special Court, Gurdaspur, upon which he was ordered to be admitted to interim bail upon joining investigation, but with him not having joined investigation and that petition seemingly having been withdrawn by him on 22.07.2021 (he having been admitted to interim bail on 15.07.2021).

Thereafter he filed a second petition before that court, which was dismissed on 18.08.2021 on that very ground, i.e. the petitioner did not join investigation despite an interim order passed in favour, with his first petition having been withdrawn.

Learned counsel further submits that the petitioner actually count not arrange for the fee of the counsel who was appearing before the learned Judge, Special Court, Gurdaspur and consequently the counsel did not inform him about the order passed by the said court (as contended but with no comment made by this court on that contention).

In any case, the petitioner allegedly having been nominated as an accused on an alleged disclosure statement made in police custody, notice of motion is issued, with Mr. Rana Harjasdeep Singh, learned DAG, Punjab, accepting notice at the asking of the court.

In view of the above, with the quantity of the intoxicant that is stated to have been allegedly recovered from the son of the petitioner at least seeming to be below commercial quantity, the petitioner is directed to join investigation within week and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

Adjourned to 21.11.2021.”

Today, learned State counsel submits that the petitioner has joined investigation, pursuant to that order.

That being so, with the petitioner having been allegedly named as an accused on an alleged disclosure statement made in police custody and therefore, his involvement in the commission of the crime itself, for the purpose of this petition, being doubtful, even in terms of the provisions of Section 37 (1) (b) (ii) of the NDPS Act, 1985, the petition is allowed with the order dated 10.09.2021 made absolute, on the same terms and conditions.

However, all such observations are made only in the context of a petition filed under the provisions of Section 438 of the Cr.P.C. and naturally, the guilt/innocence of the petitioner would be wholly determined on the basis of evidence gathered/led before the trial court.

November 22, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.