

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42645-2021
Date of Decision: 09.11.2021

M.D. Roshan

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Sarika Gupta, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.43 dated 11.08.2021, under Section 15 of NDPS Act, 1985, registered at Police Station Mukandpur, District SBS Nagar.

On 13.08.2021 this Court issued notice of motion and the State was directed to file an affidavit with regard to the antecedents of the petitioner and also as to whether there is any other material available to connect the petitioner with the present recovery apart from the disclosure statement of the co-accused.

An affidavit was filed by the Deputy Superintendent of Police, Sub Division Banga, District Shaheed Bhagat Singh Nagar on behalf of the State of Punjab.

The learned counsel for the petitioner has argued that in the

present case the petitioner has been falsely implicated and his name has been nominated on the basis of a disclosure statement made by the co-accused namely Roshan Deen and, therefore, he may be considered for the grant of anticipatory bail. She has further submitted that in fact the daughter of sister of accused Roshan Deen is married to the son of the present petitioner and there was a matrimonial dispute between them and, therefore, the name of the petitioner has been falsely disclosed by the main accused namely, Roshan Deen. She further submitted that the petitioner is not involved in any other case and, therefore, prayed for the grant of anticipatory bail.

On the other hand, Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab while referring to the affidavit filed by the State has submitted that it is a case where there was a recovery of 100 Kg. of poppy husk from the co-accused namely Roshan Deen which falls in the category of a commercial quantity and, therefore, the case of the petitioner is hit by the bar contained under Section 37 of the NDPS Act. He while referring to the affidavit further submitted that the petitioner and the other co-accused have been in touch with each other for a number of times on phone call and their phone calls have been traced and have been stated so in Annexure R-3 starting from April onwards till 11.08.2021 and large number of calls have been exchanged between both of them on different dates and so far as their mobile numbers are concerned, the KYC details have also been attached as Annexure R-1. The learned Deputy Advocate General, Punjab has submitted that the present petitioner was the source of supply of poppy husk to the other co-accused and since it was a large quantity which was recovered from the co-accused and there is sufficient material available on the record to show that the present petitioner was also connected with the

offence, he has opposed the grant of anticipatory bail.

I have heard the learned counsel for the parties.

The alleged recovery was of 100 Kg. of puppy husk from the co-accused namely Roshan Deen and the petitioner was nominated on the basis of disclosure statement of the aforesaid co-accused. Although there is no other case against the petitioner but the call details which have been annexed as Annexure R-3 would show that a large number of call details have been shared between the petitioner and the other co-accused and in the matter pertaining to NDPS Act the source has to be determined so as to **curtail the menace of drug trafficking**. It is not a case that there is no sufficient material available with the prosecution to connect the petitioner with the present crime. Furthermore, it is not a case that the prosecution is proceeding against the petitioner purely on the basis of disclosure statement. However, this Court does not wish to make any observation on the merits of the case as it is for the investigation agency to dig out the truth. However, this Court does not find any ground to make any departure from the bar contained under Section 37 of the NDPS Act. Therefore, without expressing anything on the merits of the case, this Court deems it fit and proper not to grant the concession of anticipatory bail to the petitioner.

Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

09.11.2021

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No
: Yes/No