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

**CRM-M No.42985 of 2021 (O&M)**

**Date of decision: 12.10.2021**

Sanjay Kumar

....Petitioner

Versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

**Present:** Mr. Bhavyadeep Walia, Advocate  
for the petitioner.

**ARVIND SINGH SANGWAN J. (Oral)**

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.27 dated 01.03.2021 registered under Sections 22(b)/29 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station City Moga, District Moga.

Counsel for the petitioner has argued that as per the allegations in the FIR, ASI Harpreet Singh got a secret information that co-accused Swaran Singh is habitual of selling intoxicant tablets and he is coming near the Railway Line for selling some intoxicant tablets. On receiving this information, a ruqa was sent to the Police Station for registration of the case and thereafter, the investigation was carried out and from the said co-accused Swaran Singh, 200 tablets of Alprazolam was recovered. Later on, during the police custody, Swaran Singh nominated the petitioner as a person, from whom he has procured the intoxicant tablets.

Counsel for the petitioner has further submitted that the

petitioner is not involved in any other case and has no criminal antecedents of any such type of offence and he has been falsely implicated in the case.

Counsel for the petitioner has relied upon the judgment ***“Tofan Singh vs State of Tamil Nadu”***, 2013(4) RCR (Criminal) 631, to submit that it will be a debatable issue whether the disclosure statement made by the co-accused will be admissible against the petitioner or not.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab who is present in the Court accepts notice on behalf of the respondent – State and could not dispute the factual position. It is also not disputed that the petitioner is not involved in any other case; he is the first offender and his name surfaced only in the disclosure statement of the co-accused. It is also not disputed that the statement of the co-accused Swaran Singh has been recorded by the police and the same is not recorded before the Magistrate.

In view of the above, considering the fact that the petitioner is not involved in any other case under the NDPS Act; he has been nominated in the case on the basis of the disclosure statement of the co-accused and in view of the judgment of the Hon'ble Supreme in ***“Tofan Singh's case (supra)”***, this petition is allowed and the petitioner is directed to appear before the Investigation Officer within a period of 10 days from today to join the investigation and he will be released on interim bail on furnishing bail/surety bonds to the satisfaction of the Investigating Officer subject to the conditions envisaged under Section

438(2) Cr.P.C.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)  
JUDGE

12.10.2021  
*yakub*

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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |