

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-40517-2020 (O&M)

Date of Decision:- 9.9.2021

Anup Jain

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S.Sekhon, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Kapil Dev.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in a case registered vide FIR No.320, dated 07.11.2020, Police Station Sadar Tohana, District Fatehabad, under Sections 22-B and 27-A of NDPS Act.
2. At the time of issuance of interim directions the following order was passed on 5.1.2021:

“Prayer in this petition filed under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner in case FIR No.320, dated 07.11.2020, under Sections 22-B and 27-A of NDPS Act 1985,

registered at Police Station Sadar Tohana, District Fatehabad.

Pursuant to order dated 04th December, 2020, status report by way of affidavit of Birem Singh, HPS, DSP, Tohana, District Fatehabad, on behalf of the respondent-State has been filed in Court through email. Same is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

Learned counsel for the petitioner inter alia contends that the petitioner was nominated as an accused on the basis of an alleged disclosure statement made by co-accused Ved Prakash before the Police, wherein it was stated that the alleged recovered contraband (90 strips of Tramadol and 136 strips of Alprazolam tablets) was procured by him from the petitioner. Learned counsel further submits that neither was any recovery of any contraband effected from the conscious possession of the petitioner and even the disclosure statement on the basis of which the petitioner has been arraigned as an accused is of no evidentiary value. Learned counsel still further submits that as per the disclosure statement the alleged contraband was purchased from the petitioner before the nationwide lock-down on account of COVID-19, however, the recovered contraband was admittedly manufactured in June, 2020, which casts a serious dent in the case of the prosecution and leaves no manner of doubt that the petitioner has been falsely implicated in the instant case.

Adjourned to 31.03.2021.

Meanwhile, the petitioner is directed to join investigation and appear before the investigating agency as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.”

3. The learned State counsel, upon instructions from ASI Kapil Dev, has informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation and that his custodial interrogation is not required.
4. Having regard to the facts and circumstances and that the petitioner has been nominated on the basis of a disclosure statement and the fact that the petitioner has since joined investigation, his custodial interrogation is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 5.1.2021 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

9.9.2021

mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No