

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

202

**CRM-M-52417-2019
Date of decision: 05.07.2021**

Nishan Singh @ Satnam @ SattaPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C") for grant of anticipatory bail in case FIR No.0058 dated 19.10.2019 registered under Section 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Fatehgarh Panjtoor, District Moga.

While issuing notice of motion on 09.12.2019, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"Learned Counsel for the petitioner has submitted that the petitioner was falsely implicated in the case on the basis of secret information as to supply of the heroin allegedly recovered from possession of co-accused Jaswinder Kaur @ Rani and Joginder Kaur @ Pammi by the petitioner to them. The petitioner is ready to join the

investigation.

Notice of motion.

On the asking of the Court, Mr. Arun Kaundal, DAG, Punjab accepts notice on behalf of the respondent-State. Copy of the paper book has been supplied to the Learned State Counsel, who seeks time to complete his instructions.

Adjourned to 06.02.2020.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which he shall forfeit the benefit of interim bail allowed to him."

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has, while reiterating submissions made earlier, submitted that in compliance with order dated 09.12.2019, the petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

On the other hand, learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Gurpal Singh, acknowledged that in compliance with order dated 09.12.2019 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required in the

case.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, inapplicability of Section 37(1)(b) of the NDPS Act qua the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 09.12.2019 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall comply with the conditions enumerated under Section 438(2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the NDPS Act after his release on anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of anticipatory bail allowed to him.

05.07.2021

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(ARUN KUMAR TYAGI)
JUDGE

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