

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

102

CRM-M-284-2022

Date of Decision : 07.01.2022

Banti**...Petitioner****Versus****State of Punjab****...Respondent**

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dixit Raj Kapoor, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No.160 dated 16.08.2021 registered under Sections 20, 61 & 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Urban Estate Patiala, District Patiala.

Learned counsel for the petitioner argues that though, the contraband was recovered from a car, which belongs to the petitioner but, the petitioner was not present at the site and, therefore, it cannot be said that the recovery has been done from the possession of the petitioner or the contraband recovered from a car was being carried by the petitioner in his car knowingly. Learned counsel for the petitioner further submits that as the quantity of the contraband is not commercial in nature and the petitioner is ready to join and cooperate in investigation, he may kindly be granted the benefit of anticipatory bail.

Learned State counsel submits that not only the car from which the contraband has been recovered belongs to the petitioner but, a mobile phone, which was recovered from the car, also belongs to the petitioner and the custodial interrogation of the petitioner is necessary to find out the source of the contraband, which was recovered from the car of the petitioner. Learned State counsel further submits that the petitioner is trying to evade the law as his first anticipatory bail application was withdrawn by him and, thereafter, he again filed an application for the grant of anticipatory bail, which was also dismissed by the Court below. Hence, it cannot be assumed that in case, the petitioner is directed to join and cooperate in investigation, he will cooperate with the police.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, it is not controverted that the car from which the contraband was recovered does not belong to the petitioner. Further, a mobile phone purportedly belonging to the petitioner, has also been recovered from the car. The Investigating Agency needs a stern hand to find out the source of contraband as the menace of drug abuse today is not only responsible for various health issues but also has the potential of destroying the complete generation itself.

Further, this is not a case, where allowing the petitioner to join the investigation and cooperate will achieve purpose of investigation. Even the Hon'ble Supreme Court of India in ***State represented by the C.B.I. Vs. Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, has held that in case where serious allegations have been alleged and the truth needs to be elicited from the accused, the same can only be done through the custodial interrogation

as compared to questioning a suspect, who is already on anticipatory bail. In the present case, it is necessary to find out the source of the contraband, which has been recovered from the car of the petitioner, which can only be done by the custodial interrogation of the petitioner.

No ground is made out to grant the benefit of anticipatory bail to the petitioner.

Dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

January 07, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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