

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2083-2022 (O&M)
Date of Decision: 28.02.2022

Mukesh Kumar
...Petitioner (s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Laghuinder Singh Sekhon, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
352	16.08.2020	City Tohana, District Fatehabad	22-C, 27-A and 29 NDPS Act

The petitioner apprehending arrest for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.

I have heard learned counsel for the parties for sufficient time.

Vide order dated 17.02.2022, this Court had directed the petitioner to remain present at the concerned police station on 24.02.2022 at 9-00 a.m. and further, vide order dated 24.02.2022, the petitioner was again directed to remain present at the concerned police station today i.e. 28.02.2022 at 9-00 a.m. This was because the State had opposed the bail of the petitioner, as they wanted his custodial interrogation. On the condition of the petitioner appearing at the concerned police station, the petitioner was granted interim bail, which has been extended from time to time.

Learned State counsel submits that the petitioner is present in the police station.

As per the prosecution, the role of the petitioner is that there are call details between the petitioner and co-accused Manpreet Singh @ Babbu, who is now in custody.

On the last date, learned counsel for the petitioner, on instructions, had argued

that the calls between the petitioner - Mukesh Kumar and co-accused Manpreet Singh @ Babbu were in fact between their wives who are friends. As such, the State sought time to verify this aspect. Today, a detailed reply has been filed by the State, which is accompanied with the statement of Sandeep Kaur wife of Manpreet Singh.

I have gone through the statement of Sandeep Kaur (Annexure R-2/T) at page 18 of the reply, as per which, she has stated, in the presence of the Sarpanch Jaswant Singh and Panch Sukhminder Singh, that she has never used the mobile phone of her husband nor she has come across any person named Meena Rani. In fact, she does not know her.

Learned counsel for the petitioner has filed affidavit of same Sandeep Kaur, wife of Manpreet Singh, which is in Gurmukhi script, which is contrary to the statement of Sandeep Kaur recorded by the police, where she had stated that she is illiterate. Be that as it may, both statements bear thumb impression and not signatures.

Learned counsel for the petitioner has further handed over the statement of Komal, as per which, the mobile number purported to be of Mukesh Kumar was with Meena Rani.

The reply filed by the State explicitly mentions that the statement of Sandeep Kaur was recorded in the presence of Sarpanch and Panch. Given the stand taken by the State, the petitioner is *prima facie* incorrect and is not entitled for interim protection. Section 37 NDPS Act refrains protection of the petitioner and he needs to satisfy the Court in case the public prosecutor opposes the bail and in the present case, the public prosecutors have consistently opposed the bail to the petitioner and they want his custodial investigation. A perusal of the entire petition does not make out a case for anticipatory bail, because the petition is required to satisfy the twin conditions of Section 37 NDPS Act. Given above, the interim order is hereby vacated and the petition is dismissed.

At this stage, learned counsel for the petitioner submits that he be afforded a week's time protection to enable him to approach the Hon'ble Supreme Court.

Needless to say that filing an SLP is subject to other conditions and in the present case, there is nothing in Section 37 NDPS Act which empowers this Court to grant interim protection once the bail is dismissed. Given this, the prayer of the petitioner is rejected.

(ANOOP CHITKARA)
JUDGE

February 28, 2022
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No