

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

CRM-M No.4162 of 2022

Date of Decision: 07th March, 2022

Sukhi @ Sukhpreet

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. R.S. Mamli, Advocate
for the petitioner.

Ms. Ambika Sood, Additional Advocate
General, Haryana.

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MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case pertaining to the FIR bearing No.0296 dated 29.12.2021 registered at Police Station Sadar Ratia, District Fatehabad, under Sections 21 (b) & 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'the Act'), the petitioner has preferred this petition for seeking the relief of anticipatory bail.

Bereft of unnecessary details, the allegations, as levelled against the petitioner in the present case, are that while ASI Sajjan Singh, along-with some other police officials, was present in front of Police Post Brahmanan Wala, a young boy was seen coming on the motor-cycle who, on seeing the police party, tried to flee away but was apprehended.

On being enquired, he disclosed his name as Amandeep Singh @ Aman and during his personal search, 06 gram *heroin*, packed in one polythene paper, was recovered from the right side pocket of his pant which was taken into possession. During his interrogation, the above-named accused disclosed that he had purchased the said contraband from the petitioner for a sum of Rs.7200/-. Thereafter, the offence under Section 27-A of the Act was invoked in this case.

Status-report, as filed on behalf of the respondent-State by way of the affidavit of the Deputy Superintendent of Police, Head Quarter Fatehabad, along-with Annexures R-1 & R-2 and the vernacular version of Annexure R-1, is already available on the file and these documents are taken on the record.

I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the afore-said contraband was not recovered from the petitioner and rather, the same was allegedly recovered from his above-named co-accused and even otherwise, the quantity of the contraband falls within the category of 'intermediate/non-commercial quantity' and moreover, the petitioner has been roped in as an accused in this case merely on basis of the disclosure statement of his said co-accused and in these circumstances, he deserves the relief as prayed for in the instant petition. To buttress his contentions, he has placed reliance upon the judgments rendered by the Co-ordinate Benches in **Daljit**

Singh vs. State of Haryana CRM-M No.12997 of 2020 Decided on 16.07.2021 and **Navjot Kumar @ Jyoti vs. State of Haryana CRM No.M-122 of 2016 (O&M) Decided on 05.04.2016.**

Per-contra, learned State counsel argues that the petitioner had sold the said contraband to his above-named co-accused and therefore, Section 27-A of the Act has also been added in the present case and hence, the provisions of Section 37 of the Act are applicable to the same and moreover, besides the disclosure statement of his co-accused, the Call Detail Record of the Mobile Phone number used by the petitioner, has also been procured which shows that the petitioner and his said co-accused had talked to each other several times on the day of the recovery of the said contraband and keeping in view the gravity of the offence as committed by the petitioner, this petition be dismissed.

The afore-named co-accused of the petitioner, in his disclosure statement Annexure R-1, has categorically stated that he had purchased the said contraband from the petitioner for a sum of Rs.7200/-. In Para No.6 (c), it has further been mentioned that the Call Detail Record of the Mobile Phone number used by the petitioner shows that he and his said co-accused had conversed with each other several times on the day of the afore-alleged recovery of the contraband. Moreover, in Para No.10 therein, it has also been deposed that the location of the Mobile Phone Number of the petitioner matched with the contents of the disclosure statement of his said co-accused. Then, in Para No.3 it has specifically been mentioned that the petitioner is, prima-face, accused of committing the offence under Section

27-A of the Act. It is pertinent to mention here that the said offence attracts the rigour of Section 37 of the Act.

The observations, as made by the Co-ordinate Benches in **Daljit Singh (supra)** and **Navjot Kumar @ Jyoti (supra)**, are of no help to the petitioner in the present case because the facts and circumstances of the afore-cited cases are distinguishable from those of the instant one. In **Daljit Singh (supra)**, the FIR had been registered on the basis of the secret information and the petitioner was allegedly escorting the Canter carrying the contraband and was assigned the duty of giving the signal in the eventuality of the presence of the police on the way whereas, in this case, the petitioner had allegedly sold the said contraband to his co-accused and is, prima-facie, alleged to be an accused under Section 27-A of Act. Then, in **Navjot Kumar @ Jyoti (supra)**, the petitioner had allegedly escaped from the spot and the recovery had been effected from the vehicle whereas in the present case, as mentioned earlier, the petitioner is alleged to be the seller of the contraband and to have, thereby, committed the offence under Section 27-A of the Act which makes the provisions of Section 37 of the Act applicable to his case. Even otherwise, it has been observed by the Apex Court in **Megh Singh vs. State of Punjab 2003(4) RCR (Criminal) 319** that *“circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect. It is more pronounced in criminal cases where the*

backbone of adjudication is fact based.”

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of anticipatory bail. Resultantly, the petition in hand stands dismissed accordingly.

07.03. 2022

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No