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

CRM-M-5329-2022

Date of decision : 07.03.2022

Aalok

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Simranjeet Singh, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.197 dated 16.09.2021 registered under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 27-A/61/85 of the NDPS Act have been added later on) at Police Station Tohana, District Fatehabad, Haryana.

On 09.02.2022, this Court had passed the following order:-

“Learned counsel for the petitioner inter alia contends that as per the prosecution version, recovery has been effected from Sonu and Vikram and it is on the basis of the disclosure statements of said Sonu and Vikram that

the present petitioner is sought to be made as an accused.

*Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu**, reported as **2021 (1) RCR (Criminal) 1**, an order passed by Coordinate Bench of this Court dated 17.06.2020 in CRM-M-12051-2020 titled “**Mewa Singh Vs. State of Punjab**”, and an order of another Coordinate Bench dated 16.07.2021 passed in CRM-M-12997-2020 titled as “**Daljit Singh Vs. State of Haryana**” to contend that in such like cases if a person has only been proceeded against on the basis of disclosure statement of co-accused and no recovery has been effected from the petitioner, then he should be granted the benefit of anticipatory bail.*

Notice of motion.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of State of Haryana and seeks time to get instructions.

Adjourned to 07.03.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

Learned State Counsel is directed to verify the fact as to whether there are any phone calls between the petitioner and the persons from whom the alleged recovery has been effected or there is any incriminating evidence other than the disclosure statement against the present petitioner. ”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 09.02.2022, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from ASI Karnail Singh, has submitted that although the petitioner has joined the investigation on 02.03.2022 but he is involved in two more cases registered under the NDPS Act.

Learned counsel for the petitioner, in rebuttal, has stated that in both the abovesaid cases, the petitioner is on bail and the said fact has specifically been mentioned in para 8 of the petition. He has further relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 09.02.2022 and also the fact that the petitioner has joined the

investigation and is not required for further custodial interrogation and also in view of law laid down in ***Maulana Mohd. Amir Rashadi's case*** (Supra), the present petition is allowed and the interim order dated 09.02.2022 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

07.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No