

CRM-M-8207-2022 (O&M)

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

**CRM-M-8207-2022 (O&M).
Decided on: February 25, 2022.**

Jeet Ram

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Satnam Singh Gill, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.37 dated 18.1.2022, under Sections 18 and 27-A of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Thanesar Sadar, District Kurukshetra.

As per the FIR on 18.1.2022 when Assistant Sub

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Inspector along with other police officials was present at Pipli Chowk in connection with patrolling, a secret information was received that one Amarjit Singh son of Dev Rai, resident of village Palassi Kalan, Police Station Nalagarh, District Solan, Himachal Pradesh, who used to visit West Bengal by loading goods in his truck bearing registration No.HR-64-7844 and on return used to bring opium along with other goods in his truck and on that day also aforesaid Amarjit Singh had brought opium along with other goods in his truck from West Bengal side and had parked his truck at Lay by opposite to New Moga Punjabi Dhaba situated at Pipli Shahabad G.T. Road, in the area of village Sanwla and if an immediate raid was conducted, then he could be apprehended along with truck and opium could be recovered from the truck. Thereafter, the provision of Section 42 of the NDPS Act, was complied with and the present FIR was registered. Thereafter, aforesaid Amarjit Singh was apprehended along with 4.5 kgs. of opium. During investigation of the case, he disclosed the name of the present petitioner and stated that petitioner had asked him to bring 1 kg. of opium for him and for that he had given him a sum of Rs.1 lac.

Learned counsel for the petitioner has submitted that the name of the petitioner has been nominated on the basis of disclosure statement which is not admissible in evidence and therefore, the petitioner may be considered for the grant of anticipatory bail.

On the other hand, learned State counsel has submitted that he has received an advance copy of the present petition and has also

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perused the same and has also sought instructions from the investigating officer SI Nar Singh. He, on instructions, submitted that it is a case where there was recovery of 4.5 kgs. of opium which falls under commercial quantity and therefore, the prayer for the grant of anticipatory bail is hit by Section 37 of the NDPS Act. He submitted that there is no ground for making departure from the aforesaid bar. He further submitted that so far as admissibility of the disclosure statement made by co-accused is concerned, the matter is still at the investigation stage and the petitioner is also involved in six other cases pertaining to the NDPS Act and out of these six cases, the petitioner has been convicted in two cases under the NDPS Act and acquitted in two cases and in one case, the petitioner is still under-trial. He further submitted that menace of drug trafficking is increasing day by day and in order to check the source of such kind of contrabands, custodial investigation of the petitioner is required.

I have heard the learned counsel for the parties.

Although the petitioner has been named on the basis of disclosure statement of the co-accused but the matter is still at the investigation stage and the petitioner is involved in six other cases out of which he has been convicted in two cases under the NDPS Act. The source of contraband is required to be ascertained. The argument raised by learned counsel for the petitioner that his name was nominated purely on the basis of disclosure statement does not cut any ice. There is no straight jacket formula that whenever an accused is nominated on the basis of disclosure

statement then there should be any presumption, that he is not guilty, in his favour. It is only one of the factors which is to be seen at the time of investigation. Not only this, the petitioner was involved in six more cases out of which he has been convicted in two cases under the NDPS Act. Therefore, the petitioner will not be entitled for the grant of anticipatory bail. Apart from the same no ground has been made out seeking departure from the bar contained under Section 37 of the NDPS Act.

Consequently, finding no merit in the the present petition, the same is, hereby, dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

February 25, 2022.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No