

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

**CRM-M No. 13411 of 2022
Date of Decision: 31.03.2022**

Sarabjit Singh @ Loga

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ruhani Chadha, Advocate, for the petitioner.

Mr. Bhupender Beniwal, Assistant Advocate General, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition under Section 438 Cr.P.C., seeks grant of anticipatory bail in case FIR No. 08 of 18.01.2022, which was registered against him, at Police Station Talwandi Chaudrian, District Kapurthala, constituting therein offences under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The incriminatory role, as, attributed to the bail applicant – petitioner in the FIR (supra), is of his occupying the car, driven by one Santokh Singh, and, that from the latter's trousers right pocket, recovery of heroin, weighing 100 grams, became effectuated, at the crime site, by the Investigating Officer concerned.

3. Therefore, the prosecution alleges that the petitioner was conspiring with the above principal offender in his committing the offence(s), as embodied in the FIR (supra).

4. Be that as it may, since the weight of the recovered heroin, at the instance of the co-accused / Santokh Singh, and, from the aforesaid alleged exclusive and conscious possession, rather makes it fall within the ambit of non-commercial quantity thereof, therefore, the rigors of Section 37 of the NDPS Act, are not applicable thereon, thereupon constraining this Court to admit the bail petitioner to pre-arrest bail.

5. However, the learned State Counsel opposes the grant of pre-arrest bail to the bail applicant, on the ground that the bail applicant is habitual offender.

6. The afore made submission is benumbed, upon this Court, making stringent conditions upon the bail applicant, inasmuch as his making an undertaking before the Investigating Officer concerned, that he shall not re-indulge in any criminal activity, whereupon, on breach thereof, the benefit of anticipatory bail, as granted to him shall become *ipso facto* annulled, leaving liberty to the Arresting Officer, to forthwith arrest him, and, to thereafter, produce the bail applicant before the learned Magistrate concerned, for appropriate directions, *vis-a-vis*, an order of judicial custody being made, upon him.

7. Consequently, with condition (*supra*), the instant petition is disposed of. In sequel, it is ordered that in the event of arrest of the bail applicant-petitioner, he be released, by the Investigation Officer, on his furnishing personal and surety bonds in the sum of ₹ 50,000/- each, before him, and, also subject to his not tampering with prosecution

evidence, and/or not influencing prosecution witnesses, and, also, as

and when he is summoned by the investigating officer, through a written Hukamnama, his cooperating in the investigations to be made into the offence(s) concerned.

March 31, 2022

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**(SURESHWAR THAKUR)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>