

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

212

CRM-M-15461-2022

Date of Decision: 16.05.2022

Sarabjit Sharma

...Petitioner

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. L.S.Lakhanpal, Advocate,
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by SI Gurcharan Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.45 dated 12.03.2022 at Police Station Special Task Force, District STF Wing (but mentioned in order dated 28.03.2022 as P.S. STF, Phase-4 Mohali, District SAS Nagar), under Sections 21/29 of the NDPS Act, wherein it has been alleged that co-accused of the petitioner, namely, Deepak Kumar, Lovepreet Singh, Jagjit Singh and Sahil Mehra were intercepted by the police while they were travelling in a car bearing registration No.DL-1CN-0650 and that the search of the car led to recovery of 2.5 kgs of 'heroin'. It is further the case of the prosecution that Jagjit Singh upon interrogation disclosed that it is the petitioner, who had supplied the said 'heroin'.

2. At the time of issuance of notice of motion on 11.04.2022, the following order was passed:

“Counsel inter alia contends that the name of the applicant-petitioner has come forth during investigation and on account of the statements of the co-accused, who were arrested at the spot. It is submitted that even the car being driven by the said accused does not belong to the petitioner and he has no other similar case registered against him under the Narcotic Drugs and Psychotropic Substances Act, 1985.

Notice of motion.

Mr. A.S. Dhaliwal, DAG, Punjab accepts notice on behalf of the respondent and prays for time.

Adjourned to 16.05.2022.

In the meantime, it is directed that the petitioner shall join investigation and in the event of his arrest, he shall be released on ad interim bail by the Investigation Officer. The petitioner shall join investigation as and when required and shall comply with the conditions laid down under Section 438(2) Cr.P.C.”

3. Learned State counsel upon instructions has informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation and that he is not wanted in any other case under the NDPS Act, but he happens to be involved in one case under IPC. Learned State counsel has, however, opposed the petition on the ground that the petitioner is not fully cooperating in the investigation.
4. I have considered rival submissions addressed before this Court.
5. Having regard to the fact that the petitioner was never apprehended at the spot and no recovery was ever effected from him and he has been nominated on the basis of a disclosure statement of co-accused and is also stated to have joined investigation, this Court is of the opinion that his custodial interrogation may not be justified particularly when the

assertion of the prosecution regarding the petitioner not cooperating with investigation is based on a fact that he has not disclosed the source from which contraband was procured, whereas such like disclosure would virtually be suicidal for an accused. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 11.04.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

16.05.2022

Vimal

**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**