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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14937-2022 (O&M)

Date of Decision: 05.09.2022

Hargobind Singh

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. D.N. Ganeriwala, 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 the grant of anticipatory bail to the petitioner in FIR No. 102 dated 23.02.2022, under Section 15 of NDPS Act, registered at Police Station Sadar Dabwali, District Sirsa.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and his name has been nominated on the basis of disclosure statement made by the other two co-accused who were apprehended at the spot. He further submitted that those two accused have already been granted regular bail and the alleged recovery from them was only 10 kgs. of poppy husk and the same does not fall in the category of commercial quantity under the NDPS Act. He further submitted that it is a case where the petitioner is not involved in any other case under the NDPS Act but he is involved in some of the other cases under the IPC. He

further submitted that the police does not have any other sufficient material to connect the petitioner with the present offence apart from the disclosure statement of the co-accused which is not otherwise admissible in evidence in view of the law laid down by the Hon'ble Supreme Court in ***Tofan Singh Vs. State of Tamil Nadu, 2021 (1) RCR (Crl.) 1***. He further submitted that he was granted interim bail by this Court on 08.04.2022 and in pursuance of the directions issued by this Court, he has already joined investigation and he has fully cooperated with the investigation process and therefore, the aforesaid order may be confirmed.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that an affidavit has been filed by the State and while referring to the affidavit he submitted that it is correct that the petitioner was nominated on the basis of disclosure statement of the co-accused from whom there was a recovery of 10 kgs of poppy husk which does not fall in the category of commercial quantity under the NDPS Act. He further submitted that in pursuance of the orders passed by this Court the petitioner has already joined investigation.

On a specific query being asked to the learned State counsel as to whether there was any sufficient material available with the investigating agency to connect the petitioner with the present offence apart from the disclosure statement of the co-accused, he submitted that neither any such material has been mentioned in the affidavit nor he has got any instructions in this regard.

I have heard the learned counsel for the parties.

It is a case where the name of the petitioner was nominated on the basis of the disclosure statement of the co-accused and the alleged recovery

from the co-accused does not fall in the category of commercial quantity. A perusal of the affidavit filed by the State as well as the arguments raised by the learned State counsel would show that at this stage there is nothing on record to connect the petitioner with the offence apart from disclosure statement. A perusal of the affidavit would further show that there is nothing on record nor it has been argued by the learned State counsel that in case the interim bail granted to the petitioner is confirmed, then there is a likelihood that he may abscond or may influence any witness or may tamper with evidence.

In view of the aforesaid facts and circumstances, the present petition is allowed. The order dated 08.04.2022 is hereby made absolute.

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

05.09.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No