

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

205

CRM-M-18721-2021

Date of Decision : **March 07, 2022**

AMANDEEP SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Rakesh Kumar, Advocate for the petitioner.

Mr. Arun Kaundal, Deputy Advocate General, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.118 dated 15.6.2019 under Section 22 of NDPS Act, registered at Police Station Kotwali, District Kapurthala.

In the present case, this Court had issued notice of motion on 13.5.2021 and it was submitted by the learned counsel for the petitioner that the alleged recovery in the present case was only 110 grams which falls under the category of commercial quantity but it was only marginally high and the present case was planted upon the petitioner. He has further submitted that when earlier interim bail was granted by the learned Sessions Court, he could not surrender in time because he had suffered paralysis and the petitioner is not a habitual offender. Therefore, interim protection was also granted to the petitioner on the aforesaid date. Thereafter, reply has been filed by the State by way of Status report.

The learned counsel for the petitioner has submitted that in the status report filed by the State, it has come out that the petitioner was also involved in some other case i.e. FIR No.157 dated 12.9.2019 under Sections 21, 61, 85 of NDPS Act, Police Station Adampur, District Jalandhar (Rural) but the same has not been disclosed in the present petition but so far as the present case is concerned, the petitioner has already joined the investigation and has also cooperated with the investigation process in view of the interim order passed by this Court.

On the other hand, the learned State counsel has submitted that firstly the recovered quantity of Alprazolam is 110 grams which falls in the category of commercial quantity and, therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act. Secondly, the petitioner has deliberately concealed the material facts from this Court and, therefore, the concession of anticipatory bail should not be granted to the petitioner. He while referring to paras No.7 and 8 of the affidavit filed by the State has submitted that when earlier interim bail was granted by the learned Sessions Court on 30.7.2019, when the FSL report was still awaited but thereafter the same was cancelled on 30.10.2019 after the FSL report was received. In this way the petitioner remained on interim bail from 30.7.2019 to 30.10.2019 but thereafter the petitioner did not surrender and, therefore, bailable warrants were issued by the learned trial Court in this regard and it was thereafter that the petitioner had filed the present anticipatory bail application before this Court whereby interim protection was granted to the petitioner. He submitted that during the time when the petitioner was on interim bail

which was granted by the learned trial Court i.e. from 30.7.2019 to 30.10.2019 the petitioner repeated another offence under the NDPS Act and consequently an FIR No.157 dated 12.9.2019 under Sections 21, 61, 85 of NDPS Act, Police Station Adampur, District Jalandhar (Rural) was registered against him and this fact has been actively concealed by the petitioner in the present petition and, therefore, he is not entitled for the grant of anticipatory bail. Thirdly, the petitioner has jumped the bail and despite cancellation of bail he still did not surrender before the Court well in time and the argument raised by the learned counsel for the petitioner that he was suffering from paralysis is not supported by any evidence and rather he had committed another offence while he was on bail. He further submitted that although in pursuance of the order passed by this Court on 13.5.2021, the petitioner has already joined the investigation but his custodial investigation is required and in view of the aforesaid facts and circumstances of the case, he is not entitled for the grant of anticipatory bail.

I have heard the learned counsels for the parties.

The status report filed by the State would show that the petitioner has concealed material facts from this Court. While he was on interim bail granted by the learned Sessions Court, an FIR was also registered against him during that period and he was involved in another case under the NDPS Act. The present petition is supported by an affidavit of the petitioner and, therefore, the conduct of the petitioner would disentitle him for the grant of anticipatory bail even though he has joined the investigation. The argument raised by the learned State

counsel that the custodial investigation of the petitioner is required would also carry weight in view of the aforesaid facts and circumstances of the present case. Further-more the justification put forth by the learned counsel for the petitioner that the petitioner was suffering from paralysis is also not supported by any document or evidence. Apart from the same, the present case would also be hit by the bar contained under Section 37 of NDPS Act. The learned counsel for the petitioner has not been able to show any ground for making a departure from the same.

In view of the above, this Court does not deem it fit to grant the concession of anticipatory bail to the petitioner.

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

March 07, 2022

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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No