

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-17726-2021 (O&M)

Date of decision : 09.08.2022

JOGINDER SINGH

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present :- Mr. Yagyaang Ajay, Advocate
for the petitioner.

Mr. R. S. Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.25, dated 27.02.2021 under Sections 21, 61 and 85 of NDPS Act (Section 29 of NDPS Act added lateron) registered at Police Station Baghapurana, District Moga.

It has been submitted by learned counsel for the petitioner that the petitioner's name was nominated on the basis of disclosure statement made by co-accused and therefore, the petitioner may be considered for the grant of bail. He further submitted that the petitioner had no role in the present case and he has been falsely implicated.

On the other hand learned State counsel has stated that in the present case the arrest of the petitioner was stayed but despite the same the petitioner has not even appeared to join the investigation. It is submitted that

rather after the registration of the present FIR, two more FIRs have been registered against the petitioner dated 24.03.2021 and 20.06.2021 under the provisions of NDPS Act. He further submitted that the petitioner although was nominated on the basis of disclosure statement but the recovery from the co-accused was 500 grams of heroin which falls in the commercial quantity. He further submitted that the only argument raised by learned counsel for the petitioner that his name was nominated only on the basis of disclosure statement would not be sustainable for the purpose of grant of anticipatory bail in view of the judgment of Hon'ble Supreme Court in **Criminal Appeal No.1005 of 2022 titled State of Haryana Vs. Samarth Kumar**. He further submitted that the bar of Section 37 of the NDPS Act will also operate in the present case.

I have heard learned counsel for the parties.

The arrest of the petitioner was stayed by this Court on 25.08.2021 but as per the learned State counsel it is almost one year the petitioner has failed to join the investigation. Rather two more cases under the NDPS Act were registered against the petitioner after the present FIR. Apart from the same the recovery from the co-accused was of 500 grams of heroin and the learned counsel for the petitioner has not been able to make out any ground for making a departure from the bar contained under Section 37 of the NDPS Act. The only argument raised by learned counsel for the petitioner is that his name was nominated on the basis of disclosure statement would be of no avail to the petitioner in view of the fact that the petitioner for one year did not join the investigation despite interim order passed in his favour and after the registration of the present FIR, he has been involved in two more FIRs under the NDPS Act. Apart from the same, the

arguments with regard to the admissibility of disclosure statement may be available to the petitioner while considering regular bail and not for anticipatory bail in view of the judgment of Hon'ble Supreme Court in Samarth Kumar (supra).

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

09.08.2022

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Whether speaking/reasoned	Yes
Whether Reportable :	No