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

CRM-M-19986-2021

Date of decision : 11.01.2022

Deepak Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. V.B. Godara, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.151 dated 02.04.2021 registered under Sections 21 (b), 27-A/61/85 of the Narcotic Drugs and Psychotropic Substances Act at Police Station City, Fatehabad, District Fatehabad.

On 19.05.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video-conferencing.

Learned counsel for the petitioner contends that petitioner has been nominated on the basis of disclosure statement of Akash from whom 10.15 grams of heroin was recovered. Petitioner has no antecedent behaviour of

criminal activity.

Notice of motion for 16.08.2021.

In the meanwhile, petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 27.05.2021 at 11:00 AM and in the event of his arrest, he shall be enlarged on interim bail, on his furnishing requisite bail bonds/surety bonds to the satisfaction of Arresting Officer. However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

It is made clear that grant of interim order shall not be taken to be an expression on merits of the case in any manner. The case shall be considered on merits on the adjourned date.

19.05.2021

Sd/-(RAJ MOHAN SINGH)

JUDGE ”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 19.05.2021, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from SI Nihal Singh, has submitted that the petitioner has joined the investigation but he has criminal antecedents inasmuch in one case under the Punjab Gambling Act, the petitioner had been convicted in the year 2016 and another FIR under Sections 323 and 452 of IPC has been registered against the petitioner which is pending.

Learned counsel for the petitioner, in rebuttal to the abovesaid arguments, has submitted that as far as case under the Punjab Gambling Act is concerned, the petitioner had already undergone the said sentence and is on bail in second case. Reliance has been placed upon the judgment of

Hon'ble Supreme Court in “**Maulana Mohd. Amir Rashadi vs. State of U.P. and another**”, reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Learned counsel for the petitioner has further relied upon an order passed by Coordinate Bench of this Court dated 17.06.2020 in CRM-M-12051-2020 titled “**Mewa Singh Vs. State of Punjab**”, and an order of another Coordinate Bench dated 16.07.2021 passed in CRM-M-12997-2020 titled as “**Daljit Singh Vs. State of Haryana**” to contend that in such like cases if a person has only been proceeded against on the basis of disclosure statement of co-accused and no recovery has been effected from the petitioner, then he should be granted the benefit of anticipatory bail.

Keeping in view the abovesaid facts and circumstances moreso the facts which have been noticed in the order dated 19.05.2021 and also the fact that the petitioner was implicated in the case on the basis of disclosure statement of co-accused namely Akash and the alleged recovery from the said co-accused namely Aakash was of non-commercial quantity and also in view of the judgments relied upon by the learned counsel for the petitioner,

the present petition is allowed and the interim order dated 19.05.2021 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

11.01.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No