

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20938-2021 (O&M)
Date of decision: 27.04.2022

Gujral Singh @ Jogga

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.71 dated 03.05.2021 under Section 21(c) of NDPS Act, registered at Police Station Subhanpur, District Kapurthala.

While granting interim bail to the petitioner, following order was passed by this Court on 05.08.2021: -

“...Counsel for the petitioner has argued that as per the allegations in the FIR, registered on 03.05.2021, at the instance of SI Amandeep Kumar with the allegation that when he along with the other police officials was going in his vehicle bearing registration No.PB-09-X-6118 and was approaching the main

highway from the link road, he noticed that a young man is alighting from his vehicle bearing registration No.PB-09-AA-0945 mark White colour XUV and he was going to hand over a bag to one of the occupant of Indigo vehicle. In the car headlights, SI Amandeep Kumar identified him as Gujral Singh @ Jogga i.e. the present petitioner, as he was known to him earlier. On seeing the police party, he became perplexed and by throwing the bag, he fled away from the spot in his vehicle towards Jalandhar side and thereafter, the persons sitting in the vehicle ahead of him also fled away. Due to darkness, the vehicle of the petitioner could not be chased out. Later on, from the bag thrown by the petitioner, 500 gms of Heroin was recovered.

Counsel for the petitioner has further submitted that the petitioner has been falsely implicated in the present case as there was no occasion for SI Amandeep Kumar to know him previously.

Counsel for the petitioner has given a brief description of the 03 FIRs in which he was earlier booked. It is further argued that in FIR No.6 dated 01.07.2018, the police apprehended 02 persons namely Rajesh Kumar and one Jagir Kaur, from whom 20 gms of Heroin was recovered. Later on, the petitioner was nominated on the basis of the disclosure statement of one of the co-accused and subsequent to his arrest, nothing was recovered from the petitioner.

Counsel for the petitioner has then, referred to FIR No.60 dated 22.06.2019 wherein the police arrested one Saaraj Singh and recovered 550 gms of Heroin along with some amount and the petitioner was again nominated on the basis of the disclosure statement. Thereafter, the petitioner was arrested and nothing was recovered from him.

Counsel for the petitioner has, lastly, referred to FIR

No.118 dated 23.06.2016 in which the petitioner, on the basis of the secret information was arrested and 500 gms of intoxicant powder was recovered. It is further submitted that since in this FIR, his XUV number and colour was mentioned, the same was mentioned in the present FIR, though, the colour or the registration of number of the other Indigo car was not mentioned.

Counsel for the petitioner has also submitted that the version of the police that the petitioner threw the bag and ran away from the spot in his car is doubtful as the petitioner could have escaped along with the bag. It is also submitted that no efforts were made by the police to chase the vehicle of the petitioner, which also raises a suspicion that the petitioner has been falsely nominated in the FIR.

Lastly, it is argued that the petitioner is on bail in all the 03 previous FIRs and since he was not apprehended at the spot, he may be granted the concession of bail.

In reply, counsel for the State has argued that in view of the bar under Section 37 of the NDPS Act and a presumption under Section 54 of the NDPS Act of possession of narcotics articles, the petitioner is not entitled to anticipatory bail as he was earlier known to the Investigating Officer but could not be apprehended at the spot.

However, it is not disputed that the identity of the person, who was allegedly sitting in the Indigo car is not established till date and therefore, it is submitted that the petitioner be directed to join the investigation...”

Learned counsel for the petitioner submits that in pursuance of the aforesaid order, the petitioner has joined the investigation and is not required for any further investigation.

Learned State counsel, on the basis of affidavit of Investigating Officer/SI Amandeep Kumar, Police Station Subhanpur, Kapurthala, has not disputed the fact that the petitioner has joined the investigation and he is no more required for any further investigation and report under Section 173 Cr.P.C. stands presented on 01.11.2021.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 05.08.2021 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

[ARVIND SINGH SANGWAN]
JUDGE

27.04.2022
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No