

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

**CRM-M-27329-2022
Date of decision: 04.07.2022**

Vijay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Robin Singh Hooda, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 223 dated 01.08.2021, registered under Section 22 and 29 of the NDPS Act, 1985 at Police Station Sector 14, Panchkula, District Panchkula.

Learned counsel for the petitioner submits that the petitioner is a first offender and he is not involved in any other case.

Learned counsel for the petitioner relies upon order dated 04.02.2022 passed in CRM-M-41025-2021, vide which co-accused Mohammad Saiyad was granted the concession of regular bail by this Court.

The operative part of the order reads as under:

“Learned counsel for the petitioner submits that the petitioner was not named in the FIR, which was registered on a secret information that Naveen, Raj Kumari and Sushila are indulged in selling intoxicant tablets and if a raid is conducted, they can be apprehended red handed. On this, the police reached at the spot and apprehended aforesaid three persons and recovered 60 packets of Parvion Spas, 05 packets of

Leegesic Injection 2 ml and 25 bottles of Pherniramine Maleate injection IP.

Learned counsel for the petitioner further submits that later on 02.08.2021, the disclosure of aforesaid three co-accused was recorded, in which they named two persons namely Baba and Sonu and again on 03.08.2021, they recorded their second disclosure, in which the petitioner, Sudhir Kumar @ Baba and Sunny were further nominated.

Learned counsel for the petitioner further submits that petitioner is in judicial custody for the last 05 months and 23 days; investigation is complete and the petitioner is not involved in any other case.

Learned State counsel has filed the custody certificate and has not disputed the factual position that the petitioner was nominated in the second disclosure of the aforesaid co-accused and he is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances and also in view of the judgments rendered in ***Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1*** and ***State By (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69***, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

Learned counsel for the petitioner further submits that as per police investigation, the FIR was registered on a secret information that three persons, namely Naveen, Raj Kumar and Sushila, are indulged in selling intoxicant tablets and after the arrest of these persons, their

disclosures were recorded, in which they named Baba and Sony and later on, on the disclosure of Baba and Sonu, aforesaid Mohammad Saiyad was nominated in this case. Thereafter, on the disclosure of Mohammad Saiyad, the present petitioner was nominated as an accused in this case.

Learned counsel for the petitioner further submits that in view of the judgments rendered by Hon'ble Supreme Court in *Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1* and *State By (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69*, it will be a matter of trial whether disclosure of the co-accused is admissible against the petitioner or not.

Notice of motion.

Mr. Deepak Kumar Grewal, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and on instructions of ASI Arvind Kumar, he has not disputed the factual position.

After hearing learned counsel for the parties, without making any comment on the merits of the case, considering the aforesaid facts and also in view of the ratio of law as laid down by Hon'ble Supreme Court in aforesaid judgments, the present petition is allowed and the petitioner is granted the concession of anticipatory bail, subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioner to join investigation, if so required, by issuing him a written notice in this regard.

04.07.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*