IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-28435-2022

Date of Decision:-15.07.2022

Dharamveer.

......Appellants.

Versus

State of Punjab.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Karanjeet Singh Brar, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

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JASJIT SINGH BEDI, J.

The Prayer in this petition under section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.60 dated 06.06.2022 under Sections 18 (c), 29 of NDPS Act, 1985 registered at Police Station Bahavwala, District Fazilka.

2. The brief facts of the case are that the present FIR was registered at the instance of SI Gurwinder Singh No.813/Fzr on the allegations that on 06.06.2022 he alongwith other police officials was present in the area of T point Rampura Narainpura defence road, where a Naka was laid. After sometime, a car make Santro silver in colour bearing NO/RJ14-8C-1249 approached the spot, which was signalled to stop. However, the driver of the car became perplexed and tried to turn back the car. On the basis of suspicion, the driver was apprehended and on

interrogation he disclosed his name as Moti Lal son of Chaina Ram. Thereafter, search of the car was conducted and from a bag placed between front seat of the car, 7 Kg of Opium was recovered. During the course of investigation, said Moti Lal suffered his disclosure statement, whereby the present petition was nominated in this case vide DDR No.18 dated 10.06.2022. As per the disclosure statement suffered by Moti Lal he was to supply 2 Kg of Opium out of the above said 7 Kg Opium to the Petitioner. He further confessed that he had been selling opium to the petitioner since the year 2019 and on his asking he got opened the account of Moti Lal through Rajan Setia Bank Manager in HDFC Bank. It is further alleged that on 15.04.2022, 17.04.2022 and 17.04.2022, an amount of Rs.30,000/-, Rs.10,000/- and Rs.20,000/- respectively was deposited by Dharamveer in the account of Moti Lal. It further came to light that on 15.11.2020, 06.04.2021, 23.08.2021 and 06.05.2022 an amount of Rs.50,000/-, Rs.80,000/-, Rs.1,50,000/-, Rs.20,000/- respectively was got deposited by the petitioner in the account of Moti Lal.

3. The Counsel for the petitioner contends that the petitioner has not been named in the FIR and has only been named in disclosure statement of the arrested co-accused Moti Lal. He submits that even as per the said disclosure statement 2 Kg of Opium was to be delivered to the petitioner but infact nothing had been delivered and, therefore, no offence is made out. Reliance is placed by him on the judgment in **Toofan Singh Vs. State of Tamil Nadu** **2021(4) SCC 1** and **State by (NCB) Bengaluru Vs. Pallulabid Ahmed Arimutta and Anr.** **2022 Live Law SC 63** to contend that the disclosure statement of the accused is inadmissible in evidence against the co-accused and as he was the first time offender no adverse inference can be drawn against him.

4. The Counsel for the State on the other hand contends that undoubtedly, the petitioner's name figured first time in the disclosure statement of his co-accused Moti Lal. However, during the course of investigation it was revealed that the petitioner had transferred a sum of Rs.60,000/- in different tranches vide UPI App. There were certain other cash transactions which are also being verified by the investigating agency. He thus contended that it was not only the disclosure statement of the co-accused which inculpated the petitioner but also the fact that a huge amount of money was being deposited by the petitioner in the account of Moti Lal which remained unexplained. Thus it was apparent that the petitioner was a party to the offence in question and did not deserve the concession of anticipatory bail.

5. I have heard counsel for both the sides at length.

6. Admittedly, the investigation against the petitioner began with the recording of the disclosure statement of his co-accused Moti Lal. However, thereafter the investigating agency has been able to obtain the record of banking transactions to establish that the petitioner has been transferring money to the account of Moti Lal. On a query to the counsel for the petitioner, he has referred to certain amounts being paid to Moti Lal on account of using the services of his Harvester Combine, an argument which has remained unsubstantiated. Further there is evidence to suggest that the petitioner was in close contact with the main accused Moti Lal through Whatsapp calls using Phone No.8528888888.

7. In view of the aforesaid facts and the serious nature of the offence along with the evidence collected thus far against the petitioner, the custodial interrogation of the petitioner is absolutely necessary for the purpose of proper investigation. Accordingly, the present petition is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

July 15, 2022
Vinay

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***