

**201 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-28772-2022
Date of decision :06.09.2022**

SUNNY KHAJURIA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Ankur Bansal, Advocate
for the petitioner.

Mr. Tarun Aggarwal, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.88 dated 28.06.2021 registered under Section 21 and Section 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar, District Pathankot.

On 08.07.2022, this Court was pleased to pass the following order:-

“Inter alia contends that the present petitioner is a victim of gross persecution and harassment and is running a battery shop and has been falsely implicated in the present case. It is further submitted that there was a financial dispute between the petitioner and Amit Sooden on account of theft committed by the said accused at the shop of the petitioner which was reported by the family of the petitioner to the Panchayat and on 16.11.2017, the accused-Amit Sooden was summoned by the Panchayat to resolve the dispute and then it was settled that Amit Sooden will pay the amount as per the accounts to the petitioner and on account of the same, the said Amit Sooden felt offended and thereafter, Amit Sooden was arrested, from

whom the recovery of 5 kg 765 of cocaine was effected. It is contended that the car which was involved in the offence does not belong to the petitioner and the petitioner was not named in the FIR and no recovery has been effected from the present petitioner and the said Amit Sooden, as per the prosecution case, had given a confessional statement on 28.06.2021 implicating Attar Chaudhary and Kala Chaudhary and had not named the present petitioner and it is only when the alleged second disclosure statement was suffered by the said Amit Sooden while in police custody on 01.07.2021, on the basis of which, GD No.54 dated 01.07.2021 was entered at 11:49 PM, as per which, the petitioner had been made as co-accused It is further contended that in fact, as per the challan, there is no such second disclosure statement. It is argued that by way of crude padding, the statement of Ejaj Ahmad, who was already in judicial custody in some other case, was also recorded, in which, he had implicated the present petitioner and five other persons. It is further argued that the petitioner was not present in District Jammu or in Village Indira Nagar, PO Mira Sahib, Tehsil R.S. Pura, District Jammu at the midnight of 14/15.06.2021. As per the case of the prosecution, the alleged contraband was handed over to Amit Sooden by various persons including the present petitioner whereas, in fact, the present petitioner was in Phillaur District Jalandhar in connection with his work, from 14.06.2021 till 20.06.2021, and the petitioner had obtained the call details of his phone No.09797097888 for the period from 08.06.2021 up till 20.06.2021 and the same would show that the petitioner never visited Village Indira Nagar, PO Mira Sahib, Tehsil R.S. Pura, District Jammu, much less, at the midnight of 14/15.06.2021 and the said record, in fact, reveals that on 14.06.2021 at about 8 pm, the petitioner was in the area of Phagwara, District Kapurthala and thereafter from, 15.06.2021 to 21.06.2021, he travelled to Kartarpur, District Jalandhar, Phillaur, District Jalandhar and other places falling within District Nawanshahar. Further reliance has been placed upon the judgment passed by the Hon'ble Supreme Court in Tofan Singh Vs. State of Tamil Nadu, reported as 2021(1) RCR (Criminal) 1, 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” in support of abovesaid arguments.

It is also submitted that the petitioner is not involved in any other case and the case of the present petitioner is on a much higher footing than the case of Sheikh Ejaj Ahmed inasmuch as Sheikh Ejaj Ahmed was involved in other cases and was in fact in judicial custody in another case when his statement was recorded and there are phone call details showing that Amit Sooden (main accused), Sheikh Ejaj Ahmed and Kala Chaudhary were together on 14/15.06.2021. It is further submitted that the petitioner's father has submitted various representations to the State that the petitioner has been falsely implicated.

Notice of motion for 09.08.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

*(VIKAS BAHL)
JUDGE*

*08.07.2022
Pawan”*

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

Learned State counsel on instructions from ASI Surinder Singh has submitted that the petitioner has joined investigation and is not required for further investigation.

Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 08.07.2022, and also the fact that the petitioner has joined the investigation and is not required for further investigation, the present petition is allowed and the interim order dated 08.07.2022 is made absolute.

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 petition.

(VIKAS BAHL)
JUDGE

September 06, 2022
Amandeep

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