

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32621-2022
Reserved on: 28.07.2022
Pronounced on: August 06, 2022

Tajinder Singh @ Babbu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manjinder Singh Saini, Advocate for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0070	05.07.2022	Chabbewal, District Hoshiarpur Punjab	22/29/61/85

1. The petitioner, apprehending arrest for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above had come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 13 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	0119	23.07.2021	Section 21 of NDPS Act.	Doraha Police District Khanna, District Ludhiana

3. The petitioner's arrest is being sought for selling 27 grams of alleged heroin to the main accused, from whose possession the police had recovered the same.

4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. While opposing the bail, Ld. counsel representing the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

REASONING:

6. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. The prima facie evidence points towards the petitioner's involvement, for which custodial interrogation is required. Earlier also, the petitioner was arraigned as an accused in connection with 255 grams of heroin, which was a commercial quantity, but he got bail. A perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, he shall not indulge in criminal behavior.

8. The allegations prima facie point towards the petitioner's involvement and the prior criminal antecedents do not entitle the petitioner for anticipatory bail. Thus, the petitioner has failed to make a case for bail at this stage.

9. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 CrPC.

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

August 06, 2022
sonia arora

Whether speaking/reasoned: Yes
Whether reportable: No.