

210

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

CRM-M-34186-2022

Date of Decision: 15.11.2022

Vishal Kumar @ Vishal

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Deepti Rampal, Advocate for
Mr. Munish Puri, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.27, dated 21.06.2022, under Section 21(b) & 29 NDPS Act, 1985 registered at Police Station Nangal Bhoor, District Pathankot.

Ms. Deepti Rampal, Advocate has caused appearance on behalf of the petitioner has submitted that in pursuance of the order passed by this Court on 04.08.2022, the petitioner has already joined investigation. She further submitted that in the present case the petitioner was nominated on the basis of the disclosure statement made by the co-accused, namely, Balbir Singh but there has been a recovery of 8.5 grams of *Heroin* from another co-accused, namely, Charanjit Singh, which does not fall in the category of commercial quantity. She also submitted that so far as the present petitioner is concerned, his name was nominated with aid of Section 29 of the NDPS Act. She further submitted that be that as it may, now the petitioner has already joined the

investigation and has fully co-operated with the investigation process, the interim anticipatory bail granted to him may be made absolute. She also submitted that since the alleged recovery from the co-accused does not fall in the category of commercial quantity, therefore, the rigors of Section 37 of the NDPS Act will not apply in the present case.

Mr. Amit Rana, learned Senior Deputy Advocate General, Punjab, has stated on instructions from A.S.I. Sanjeev Kumar, that in pursuance of the order passed by this Court on 04.08.2022, the petitioner has joined investigation and he has fully cooperated with the investigation process. He further submitted that he has a specific instructions to say that the petitioner is not required for custodial interrogation. He also submitted that it is correct that the name of the petitioner was nominated on the basis of the disclosure statement of the co-accused and so far as the recovery from another co-accused is concerned, the same does not fall in the category of commercial quantity.

I have heard the learned counsel for the parties.

The name of the petitioner has been nominated on the basis of the disclosure statement of the co-accused and the alleged recovery from the co-accused does not fall in the category of commercial quantity, and therefore, the bar contained under Section 37 of the NDPS Act does not apply in the present case.

In view of the specific stand taken by the learned State Counsel, the present petition is allowed and the order dated 04.08.2022 is hereby made absolute.

15.11.2022

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |