

207

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

CRM-M-38505-2021

Date of Decision: 29.04.2022

Inderjeet Singh alias Bhola Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K.D.S. Sidhu, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, 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.116, dated 14.08.2021, under Sections 18 & 29 of the N.D.P.S. Act, 1985, registered at Police Station Bahawala, District Fazilka.

Learned counsel for the petitioner has submitted that in pursuance of the order passed by this Court on 16.09.2021, the petitioner has already joined investigation and he has fully cooperated with the investigation process and therefore, he has prayed that the interim bail granted to the petitioner may be made absolute.

In the present case, the Police had apprehended two persons, namely, Balkaran Singh and Sandeep Kumar and from them, there was a recovery of 250 grams *Opium* which does not fall in the category of the commercial quantity. It has been submitted by learned counsel for the petitioner that the petitioner is not involved in any other case and has got

clean antecedents and the case was planted upon the petitioner. He further submitted that the name of the petitioner was nominated on the basis of the disclosure statement made by the co-accused which was not admissible in evidence *per se* in view of the law laid down by the Hon'ble Supreme Court in "*Tofan Singh Vs. State of Tamil Nadu*", 2021(1) RCR (Criminal) and there was no material available with the investigation agency to connect the petitioner in any manner whatsoever with the offence and has submitted that even otherwise he has joined the investigation.

On the other hand, Mr. Davinder Bir Singh, learned Deputy Advocate General, Punjab, has submitted while referring to the affidavit filed by the Deputy Superintendent of Police, (Rural), Abohar, District Fazilka that it is correct that the name of the petitioner was nominated on the basis of the disclosure statement made by the other co-accused and that the petitioner is not involved in any other case. He further submitted that there was a telephonic conversation between the petitioner and the aforesaid two co-accused on the date of occurrence, and therefore, it cannot be said that the petitioner was not connected with the present case apart from the disclosure statement. He also submitted that the other co-accused had disclosed that they had purchased the aforesaid 250 grams of *Opium* from the petitioner. He further submitted that the petitioner has joined the investigation and has referred to the affidavit filed by the State in which it is stated that the petitioner has not cooperated with the investigation process.

I have heard the learned counsel for the parties.

Admittedly, the petitioner has joined the investigation in pursuance of the order dated 16.09.2021. However, an objection has been

raised by the learned State counsel while referring to the affidavit filed by the Police that the petitioner has not cooperated with the investigation process. However, on a specific query being raised to the learned State counsel as to in what manner, the petitioner has not cooperated with the investigation process and the learned State counsel has not been able to answer the query of the Court. Therefore, it appears that such an objection has been taken in the affidavit in a mechanical and casual manner. Apart from the same, another fact has been mentioned in the affidavit filed by the Police that on the date of occurrence, the petitioner had a telephonic conversation with the two co-accused. However, neither any date has been mentioned nor it has been mentioned as to what number of calls and for what duration it has been made.

Therefore, a perusal of the affidavit and the submission made by the learned State counsel would show that at least at this stage there is no sufficient material available with the Police to connect the petitioner with the offence apart from the disclosure statement which is otherwise inadmissible in evidence *per se*.

In view of the above, this Court is of the considered opinion that the recovered quantity of Opium does not fall in the category commercial quantity and in view of the aforesaid facts and circumstances, it is a fit case to grant anticipatory bail to the petitioner, consequently the present petition is allowed and the order dated 16.09.2021 is hereby made absolute.

29.04.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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