

CRM-M-36507 of 2022

[1]

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36507 of 2022

Date of Decision: 18th August, 2022

Sanjay Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Munish Garg, Advocate for the petitioner.
Ms. Geeta Sharma, DAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

This is a petition seeking anticipatory bail in FIR No. 612 dated 3.8.2022, under Section 21 of the NDPS Act, 1985, registered at Police Station City Sirsa.

As per the case set up, on 3.8.2022, the police party apprehended Vijay Kumar, six grams of Heroin was recovered from him. He disclosed that the recovered contraband was purchased from Sanjay Kumar (petitioner).

Learned counsel for the petitioner submits that the petitioner was not named in the FIR, he was not apprehended from the spot, he was named in a disclosure statement and recovery from the co-accused is of non-commercial quantity.

Learned counsel for the State appearing on advance notice opposes the prayer for grant of anticipatory bail. She relies upon the decision of the Supreme Court in **State of Haryana v. Samarth Kumar,**

Criminal Appeal No. 1005 of 2022, decided on 20.7.2022.

Before proceeding further, it would be relevant to quote the following paragraph of Samarth Kumar's case (supra):

“In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh v. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.”

The contention that the petitioner was named in the disclosure statement, as per decision of the Supreme Court in Samarth Kumar's case (supra) can be taken at the time of arguing regular bail or in trial.

The submission that recovery from the co-accused was of non-commercial quantity does not help the case of the petitioner for grant of pre-arrest bail. He is the alleged seller of the contraband and hence the quantity recovered from the co-accused would not be the relevant factor for considering the prayer for pre-arrest bail.

No ground is made out for grant of anticipatory bail.

The petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

18th August, 2022

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Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No