IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206-2

CRM-M-41930-2021
Decided on : 23.05.2022

Mustaq Ahmed Lohar

. . . Petitioner

Versus

Union of India, Narcotics Control Bureau, Amritsar

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Randeep Singh, Advocate
for the petitioner.

Mr. Rajiv Sharma, Advocate
for the respondent-NCB.

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VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in complaint/N.C.B. Crime No. 68 dated 13.12.2020 under Sections 8, 20, 25, 29 and 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 filed in the Court of Additional Sessions Judge, Amritsar.

Learned counsel for the petitioner has submitted that in the present case, the recovery of 17 Kgs. of Charas has been effected from the co-accused Chirag Jani and not from the present petitioner. It is further submitted that the petitioner is sought to be implicated on the basis of the disclosure of the said Chirag Jani and thus, he deserves the concession of anticipatory bail.

Learned counsel appearing for the respondent-NCB, on the

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other hand, has vehemently opposed the present application for anticipatory bail and has submitted that the present petitioner is a habitual offender and is a drug smuggler and has also referred to Annexure R-1 along with reply, filed by the respondent, wherein it has been stated that the present petitioner is lodged in Ambphalla Jail Jammu in NCB Jammu crime case No. 09/2020 dated 15.09.2020 in seizure of 56.400 kg charas (under Sections 8/20/27(a)/29 and 60 of the NDPS Act, 1985) and the petitioner is facing trial in the said case. It is further submitted that once the petitioner is in custody, the question of his having apprehension of arrest does not arise and thus, present application for anticipatory bail is not maintainable. It is contended that as per the disclosure statement of the co-accused Chirag Jani, he has stated that he was a habitual consumer of charas and he alongwith his family had reached Kashmir by road in his private vehicle and then he had made phone calls/WhatsApp calls from his various mobile numbers to drug smugglers in Kashmir, mainly, the present petitioner and other persons on their mobile numbers and discussed with them regarding consignment of charas and therefore, a deal was fixed for Rs.60,000/- per kg. of charas and the total amount that the said Chirag Jani had to pay for 17 kgs. of charas was Rs.10,00,000/- to the petitioner and other persons. The said 17 packets containing charas were concealed in a specially made cavity in the back side of the bumper of the car used by Chirag Jani and out of Rs.10,00,000/-, said Chirag Jani handed over Rs.3,00,000/- in cash to the petitioner and the other persons and had promised that the remaining amount would be transferred into their bank accounts. Learned counsel for the respondent has further referred to

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paragraph 13 of the said reply where details have been given regarding calls made between Chirag Jain and the present petitioner.

This Court has heard learned counsel for the parties and has perused the paperbook.

The allegations made against the petitioner are serious in nature and the quantity of charas involved in the present case is 17 kgs. which constitutes commercial quantity and as per the prosecution version, there seems to be active involvement of the present petitioner in the commission of the crime. Further, the petitioner is stated to be in custody in another case wherein, recovery effected was 56.400 kg. of charas.

Thus, keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the petitioner does not deserve the concession of anticipatory bail and accordingly, the present petition for anticipatory bail is dismissed.

However, nothing stated above shall be construed as a final 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 application.

(VIKAS BAHL)
JUDGE

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

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