

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

Sr. No.211

CRM-M-38273-2020
Date of decision : 21.2.2022

Harchand Singh @ Harchand Singh Kooner

.....Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.SS Gill, Advocate for
Mr.Pratham Sethi, Advocate for the petitioner
Ms.Gunkirat Kaur, AAG, Punjab

DEEPAK SIBAL, J. (ORAL)

Through the present petition filed under Section 438 Cr.P.C. the petitioner seeks anticipatory bail in FIR No.176 dated 18.10.2020 registered under Sections 18 and 15 of NDPS Act (Section 29 of NDPS Act added later on) at Police Station Khamano, District Fatehgarh Sahib.

On 27.11.2020, this Court had passed the following order: -

“The present petition has been filed under Section 438 of Cr.P.C. for seeking the concession of anticipatory bail to the petitioner in FIR No.176, dated 18.10.2020, under Sections 18 and 15 of NDPS Act, 1985 (Section 29 of NDPS Act, added later on), registered at Police Station Khamano, District Fatehgarh Sahib.

In pursuance of order dated 19.11.2020, learned State counsel has filed a status report by way of an affidavit of Sh. Dharam Pal, Deputy Superintendent of Police, Circle Khamanon, District Fatehgarh Sahib, through e-mail. The print out of the same is taken on record.

Learned senior counsel appearing for the petitioner has submitted that it is a case where the petitioner has been falsely implicated in the present case and that he was not named in the FIR and it was only on the basis of disclosure statement of Navjot Singh that the name of the petitioner has been connected in the FIR. Even also as per the disclosure statement of Navjot Singh, he has received 7 kg. of poppy husk from the present petitioner, which is also otherwise of non-commercial quantity. The petitioner was not involved in any other criminal case. The present FIR was lodged against the petitioner by the police. He has further submitted that it is a case where the main accused Navjot Singh was allegedly caught by the police with 1 kg of opium and 7 kg of poppy husk and it is in the disclosure statement of the said accused that he has received the aforesaid 7 kg of poppy husk from the present petitioner. So far as the present petitioner is concerned, he has no alleged role qua 1 kg of opium and 7 kg of poppy husk and the petitioner is not involved in any other case.

On the other hand, learned State counsel has referred to the affidavit which has been filed by the DSP, Circle Khamnon, District Fatehgarh Sahib, wherein, it is stated that from 01.09.2020 to 18.10.2020, the aforesaid Navjot Singh talked with the petitioner for 34 times despite the fact there was no relationship between them and, therefore, he is involved in the present case. It has been further submitted by the learned State counsel that the petitioner had procured a lot of property by selling drugs and, therefore, his custodial interrogation is required.

Answering to the averments, it has been argued by the learned senior counsel appearing for the petitioner that the stand taken by the State is totally incorrect and false. He has submitted that the petitioner does not possess any property. He has only a small house and one and half Kanal of land from

ancestral property. Furthermore, even otherwise also so far as the calls between Navjot Singh and the petitioner are concerned, the same were in ordinary course because the petitioner is in business of finance and liquor vending and the petitioner is nephew of his partner and, therefore, the mere fact that they had talked with each other cannot make any inference that he was involved in the present case. Mr. Sidhu has also further relied on the judgment passed by the Hon'ble Supreme Court of India in '*Tofan Singh versus The State of Tamil Nadu*' (2018 (363) ELT 3) by stating that arrest of the co-accused on the basis of disclosure statement of main accused has no relevance.

Learned counsel for the State is directed to file a fresh affidavit in the light of the submissions which have been made by the learned senior counsel for the petitioner wherein, he has stated that the petitioner is not having any property except ancestral property and that the petitioner is nephew of his partner.

Adjourned to 09.02.2021.

Meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing adequate personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called for and shall abide by all the conditions as envisaged under Section 438 (2) of Cr.P.C.”

Learned State counsel submits that in pursuance to the afore quoted order the petitioner has joined the investigation; has cooperated with the investigating agency and that his custodial interrogation is not required by the State.

In the light of the reasons given in the afore quoted order and the statement made by learned counsel for the State as also for the reason that during the period the petitioner was on ad interim anticipatory bail, he

did not misuse the same, the order of this Court dated 27.11.2020, granting ad interim anticipatory bail to the petitioner is made absolute.

It is further clarified that if the petitioner is found indulging in any criminal act or misusing the concession of bail granted by this Court, it would be open to the State to seek cancellation of the bail granted through this order by filing of an appropriate application before this Court.

21.2.2022
gsv

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No