

214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38970 of 2022(O&M)

Date of Decision: 27.10.2022

Sagar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Dinesh Nagar, Advocate
For the petitioner.

Mr. C.L. Pawar, Addl. AG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 69 dated 07.07.2022, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act at Police Station Rahon, District SBS Nagar.

Short reply by way of affidavit of Ranjit Singh, Deputy Superintendent of Police, Sub Division Nawan Shahr District SBS Nagar filed on behalf of the State is taken on record along with Annexures R-1 and R-2.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case which was registered against one Jaskaran Singh from whom the police recovered 11 injections of Buprenorphine each weighing 2 ml. The counsel for the petitioner submits that the name of the petitioner surfaced in the disclosure statement suffered by said Jaskaran Singh and the same is inadmissible in evidence as per the

law laid down in **Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1**.

The counsel for the petitioner further submits that the petitioner is ready to join the investigation with the police.

The present petition is contested by the State counsel, who submits that 11 injections of Buprenorphine of 2 ml each were recovered from the possession of Jaskaran Singh and the present petitioner was nominated as accused on the basis of disclosure statement made by said Jaskaran Singh. The State counsel further submits that the petitioner cannot take benefit of the ratio laid in Tofan Singh's case (supra) in the present petition for grant of anticipatory bail. In support of his contentions the State counsel refers to **State of Haryana Vs. Samarth Kumar 2022 (3) RCR (Crl.) SC 991**. The State counsel further submits that the petitioner is also facing one another case under NDPS Act and as such is not entitled to concession of anticipatory bail.

I have considered the submissions made by counsel for the parties.

Undoubtedly, the petitioner was not named in the FIR which was registered against co-accused Jaskaran Singh and 11 injections of Buprenorphine 2 ml each were recovered from the possession of said Jaskaran Singh which comes under commercial quantity of contraband and as such embargo provided under Section 37 of the Act is applicable to the instant case. The name of the petitioner surfaced in the disclosure statement made by co-accused Jaskaran Singh and consequently he has been nominated as accused. The Hon'ble Supreme Court in Samarth Kumar's case (supra) has clearly held that in cases of this nature the accused cannot

take advantage of the decision in Tofan Singh's case (supra) while seeking benefit of anticipatory bail. Further in the present case the petitioner is already involved in one another case of similar nature under NDPS Act.

In view of the above, this Court is of the opinion that the petitioner is not entitled to get concession of anticipatory bail. Consequently, the present petition is dismissed. However, any observation made hereinabove is not to be considered as opinion on the merits of the case.

27.10.2022
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No