

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

CRM-M-39026-2022 (O&M)

Date of decision: 31.08.2022

Resham Kaur

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ashok Giri, Advocate for the petitioner.

Ms. Monika Jalota, Sr. DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for grant of anticipatory to the petitioner in case bearing FIR No. 58 dated 04.07.2022 registered under Sections 21(b), 22(b), 29 of the NDPS Act, at Police Station Nurmahal, District Jalandhar Rural.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR, but was indicted in the present case on the disclosure statement of the main accused Gurdev Chand @ Geba, with the aid of Section 29 of the NDPS Act and that the alleged recovery of 5 gram of *Heroin*, 300 intoxicating tablets and Rs.10,500/- was effected from co-accused Gurdev Chand@ Geba. When this Court drew the attention of the learned counsel for the petitioner towards the decision of the Hon'ble Apex Court passed on 20.07.2022 in Criminal Appeal No.1005 of 2002 titled State of Haryana Vs.

Samarth Kumar, learned counsel for the petitioner submits that in that case, the recovery effected from the accused was of commercial quantity but in the present case, the recovery falls under the non-commercial quantity.

Learned State counsel submits that the petitioner has specifically been named in the disclosure statement of the co-accused; that, if granted the concession of anticipatory bail, the petitioner would indulge himself in similar crime again and that the petitioner is involved in five other cases including NPDS Act.

I have heard the learned counsel for the parties.

In the present case, co-accused was apprehended at the spot and recovery of 5 gram of *Heroin*, 300 intoxicating tablets and Rs.10,500/- was effected from him. The petitioner is also involved in five other cases, including the cases under NDPS Act.

The NDPS Act is a self-contained statute which specifically deals with menace of drugs. Stringent provisions have been provided therein for dealing with such cases. The ground that the petitioner was named in the disclosure statement in itself cannot be the sole consideration for grant of pre-arrest bail. A deeper probe is required to unearth the modus operandi and chain of supply. Further, as to whether it is a case of false implication or not, would be a subject matter of investigation.

The Hon'ble Supreme Court in Samarth Kumar's case (supra), decided on 20.07.2022, has held that advantage of the fact that no recovery was/is to be effected from the petitioner and that the petitioner has been indicted on the disclosure statement of the co-accused, as held in Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1, can be taken into consideration

while dealing with the regular bail application or at the time of final hearing after conclusion of the trial.

In view of the above, no ground is made out to grant the concession of anticipatory bail to the petitioner.

Dismissed.

31.08.2022

Mangal Singh

(HARNARESH SINGH GILL)

JUDGE

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