

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

**CRM-M-39313-2022**

**Date of Decision: 15.09.2022**

**Devender Pal Singh**

**.....Petitioner**

**Vs.**

**State of Punjab**

**.....Respondent**

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Kanwaljeet Singh Brar, Advocate,  
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. D.A.G., Punjab.

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**VIKAS BAHL, J. (Oral)**

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 80, dated 05.07.2022, under Sections 21 (a) and 29 of the NDPS Act, 1985, registered at Police Station Sadar Kotkapura, District Faridkot.

On 01.09.2022, this Court was pleased to pass the following order:-

**CRM-32020-2022**

*This is an application filed for grant of leave under Rule 3/A(1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition. In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.*

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*Learned counsel for the petitioner inter alia contends that the alleged recovery from the co-accused is of 5 grams of heroin, which falls under the stipulated small quantity and the same is far lesser than the stipulated commercial quantity*

*which starts from 250 grams of heroin and thus, the bar under Section 37 of the Narcotic Drugs & Psychotropic Substances Act, 1985 would not apply. It is further submitted that neither any recovery has been made from the present petitioner, nor he is involved in any other case. In support of his arguments, learned counsel for the petitioner has relied upon judgment of Hon'ble Supreme Court in case titled as **"Tofan Singh vs. State of Tamil Nadu" reported as 2021(4) SCC 1**; judgments passed in **CRM-M-12051-2020**, by the Co-ordinate Benches of this Court, dated 17.06.2020 titled as **"Mewa Singh Vs. State of Punjab"**.*

*Notice of motion.*

*On advance notice, Mr. Tarun Aggarwal, Sr. DAG, Punjab, appears and accepts notice on behalf of the respondent-State.*

*Adjourned to 15.09.2022.*

*In the meantime, in the event of arrest, the petitioner is ordered to be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.:"*

Learned counsel for the petitioner has submitted that in pursuance of the above-said order, the petitioner has joined the investigation.

Learned State counsel, on instructions from ASI Karam Singh, has submitted that the petitioner has joined the investigation and is not required for further investigation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 01.09.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 01.09.2022 is ordered to be made

absolute.

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.

September 15, 2022

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(VIKAS BAHL)

JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |