

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-44076-2021

Date of decision : 19.01.2022

Sikander Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Simranjeet Singh, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.423 dated 10.11.2019 registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short “NDPS Act”) (Section 27-A of the NDPS Act has been added later on) at Police Station Bhuna, District Fatehabad, Haryana.

On 25.10.2021, this Court was pleased to pass the following order:-

“Learned counsel for the petitioner inter alia contends that the recovery has not been effected from the petitioner and he has been named as an accused only on the basis of the disclosure statement of the co-accused. It is further submitted by the learned counsel for the petitioner that even the alleged recovery from the co-accused is of non-commercial quantity and the petitioner

is not involved in any other case.

*Learned counsel for the petitioner has relied upon an order passed by Coordinate Bench of this Court dated 17.06.2020 in CRM-M-12051-2020 titled “**Mewa Singh Vs. State of Punjab**”, and an order of another Coordinate Bench dated 16.07.2021 passed in CRM-M-12997- 2020 titled as “**Daljit Singh Vs. State of Haryana**” to contend that in such like cases if a person has only been proceeded against on the basis of disclosure statement of co-accused and no recovery has been effected from the petitioner, then he should be granted the benefit of anticipatory bail.*

Notice of motion.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of State of Punjab and seeks time to get instructions.

Adjourned to 18.01.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to 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 State is directed to verify the fact as to whether there was any phone call made between the petitioner and the accused-Kuldeep from whom the alleged recovery has been made and whether there is any material other than the disclosure statement to link the petitioner with the alleged incident.”

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

Learned State counsel, on instructions from SI Kashmir Singh,

co-accused Kuldeep from whom the alleged recovery has been made and the petitioner has joined the investigation on 17.12.2021 and is not required for further investigation.

Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 25.10.2021 and also the fact that there are no call details between the petitioner and co-accused Kuldeep, and the petitioner has been implicated only on the basis of disclosure statement of co-accused and the fact that the petitioner has joined the investigation and is not required for further investigation, the present petition for anticipatory bail is allowed and the interim order dated 25.10.2021 is made absolute.

Nothing stated above shall be construed as an 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 petition.

(VIKAS BAHL)
JUDGE

January 19, 2022
Davinder Kumar

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