

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105

CRM-M-40502 of 2022

Date of Decision: 06.09.2022

Krishan Singh

....Petitioner

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Jasvir Singh Dhaliwal, Advocate
for the petitioner.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.136 dated 14.08.2022, under Sections 15, 25 and 29 of the NDPS Act, 1985, registered at Police Station Sardulgarh, District Mansa.

It has been stated by the learned counsel for the petitioner that it is the case where the petitioner has been falsely implicated in the present case and his name was nominated on the basis of the disclosure statement made by the co-accused from whom an alleged recovery of 20 kgs. Poppy husk was effected. It is submitted that since the disclosure statement of a co-accused is not admissible in evidence, the petitioner may be considered for grant of anticipatory bail.

On the other hand, learned Senior DAG, Punjab submitted that he has received an advance copy of the present petition and he has also sought

instructions from the concerned police official who is also present in the Court today. He submitted on specific instructions, from ASI Hardev Singh, that the petitioner has not come to this Court with clean hands. He has submitted that he has deliberately concealed the fact from this Court that there is no other case registered against the petitioner either under the NDPS Act or any other criminal case is pending against him as stated in paragraph 8 of the petition, whereas in fact the petitioner is involved in two more cases under the NDPS Act and one case under the IPC.

I have heard the learned counsel for the parties.

A person who approaches the Court must come with clean hands. It is the duty of the petitioner to disclose each and every material facts to the Court. When the present petition was filed seeking grant of anticipatory bail, the petitioner had specifically stated in paragraph 8 of the petition that there is no other NDPS/any other criminal case registered or pending against the petitioner except the present FIR. Paragraph 8 of the petition is reproduced as under:-

“That no other NDPS/any other criminal case is registered/pending against the petitioner except present FIR.”

The petition is also supported with an affidavit of the petitioner which is at page No.7 of the paper-book. The affidavit has been duly attested by the Notary in which the petitioner has specifically stated that the petitioner/deponent is well conversant about the facts and circumstances of the case and the contents of the affidavit have also been verified. However as per the information provided by the learned State counsel, on instructions by the police official present in the Court, the petitioner is involved in as many as in three more cases, although one of

which he has been acquitted and in one case under the NDPS Act he has been convicted.

Therefore, it is clear that the petitioner has not approached this Court with clean hands. The affidavit which has been filed by the petitioner in support of the petition is therefore a false affidavit. Ordinarily this Court could have proceeded against the petitioner by lodging a prosecution against him for filing a false affidavit in this Court but taking a lenient view, this Court deems it fit and proper and in the interest of justice, to impose costs upon the petitioner instead of lodging prosecution against him.

Consequently, the present petition is hereby dismissed with costs of Rs.25,000/-, and the same be imposed upon the petitioner and the cost shall be paid and deposited by him before the learned CJM, Mansa within a period of three months from today. On the deposit of the same, the CJM, Mansa shall send the aforesaid costs to the Punjab State Legal Services Authority. In the case the petitioner does not deposit the costs as aforesaid, then the same may be recovered as arrears of land revenue.

Post this case for compliance purposes, to come up on 12.12.2022.

(JASGURPREET SINGH PURI)
JUDGE

September 06, 2022
dinesh

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