

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41191-2022

Date of decision : 23.09.2022

Sonu

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.S. Rana, Advocate and
Mr. Arvind Kumar Sharma, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

On 09.09.2022, the following order was passed:-

“Apprehending his arrest in FIR No.110 dated 12.07.2022, registered under Section 21 of the NDPS Act, at Police Station Division No.4, District Patiala, Punjab, petitioner seeks pre-arrest bail.

Counsel for the petitioner *inter-alia* contends that the petitioner has been nominated on the basis of disclosure statement of co-accused who was apprehended and recovery of 22 grams of smack was made from her. He relies upon the order passed by the Co-ordinate Bench passed in CRM-M No.33326 of 2022 titled as ***Sonu Vs. State of Punjab*** decided on 01.08.2022, whereby in the similar circumstances the petitioner has been granted relief of anticipatory bail.

Mr. Gurdarshan Singh Sidhu, Asstt. A.G., Punjab submits that the petitioner is a habitual offender and is facing 9 more cases including 2 cases under NDPS Act.

Faced with the situation, counsel for the petitioner submits that both other cases as well are of non-commercial quantity and surprisingly, all the matters relate to same police station thus false implication of the petitioner cannot be ruled out. He further relies upon dictum of law laid down in ***Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1*** to contend that statement suffered by co-accused under Section 67 of the NDPS Act will be a weak piece of evidence.

Notice of motion.

On the asking of the Court, Mr. Gurdarshan Singh Sidhu, Asstt. A.G., Punjab, appears and accepts notice on behalf of the respondent and seeks time to file reply.

Adjourned to 23.09.2022.”

2. Today, Mr. Gupta relies upon '***State of Haryana vs. Samarth Kumar***' reported as ***2022 (3) RCR (CrL) 991*** to contend that the benefit of inadmissibility of a disclosure made by co-accused as laid down in '***Tofan Singh vs. State of Tamil Nadu***' reported as ***(2021) 4 SCC 1*** cannot be extended while granting anticipatory bail.

3. Mr. Rana at this stage submits that Samarth Kumar's case (supra) will be applicable only in the case of commercial quantity.

4. I am afraid to hold that bare reading of Samarth Kumar's case (supra), no such classification has been made by their Lordships. In view of the dictum of law laid down in that case, benefit of Tofan Singh's case (supra) cannot be extended while granting pre-arrest bail.

6. Consequently, the present petition stands dismissed.

(PANKAJ JAIN)
JUDGE

23.09.2022

Dinesh

Whether speaking/reasoned :
Whether Reportable :

Yes
No