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

CRM-M-41474-2022

Date of decision : 17.10.2022

Jarnail Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kamal Narula, Advocate for the petitioners.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioners in FIR No.112 dated 07.07.2022 registered under Section 21 of the NDPS Act, 1985 (Sections 61/85 of the NDPS Act and Sections 353, 332, 186, 224, 225, 148, 149 of IPC have been added later on) at Police Station City Jalalabad, District Fazilka.

On 12.09.2022, this Court had passed the following order:-

“Learned State counsel, on instructions of ASI Mohinder Singh, has pointed out that petitioner no.1 Jarnail Singh is involved in one more case under the NDPS Act although in the petition, it is mentioned that the petitioner is not involved in any other case. It is further submitted that the said Jarnail Singh is alleged to have inflicted one injury on the ear of the police constable.

Learned counsel for the petitioners at the outset seeks to withdraw the present petition qua petitioner no.1 Jarnail Singh.

In view of the above, the present petition is dismissed as

withdrawn qua petitioner no.1-Jarnail Singh.

Qua petitioners no.2 and 3, learned counsel for the petitioners inter alia contends that the petitioners no.2 and 3 are neither named in the secret information nor named in the FIR nor any recovery has been effected from them. It is further submitted that the secret information was received against two persons, i.e. Swaran Singh and Mohinder Kaur and the recovery of 10 grams of heroin has been effected from Mohinder Kaur and the said recovery is much lesser than the stipulated commercial quantity which starts from 250 grams and thus, the bar under Section 37 of the NDPS Act would not apply in the present case. It is further submitted that no specific injury has been attributed to the present petitioners and since the police party had come to the house of Mohinder Kaur in plain clothes, large number of people had gathered outside the house of said Mohinder Kaur thinking that some assailants had come to rob said Mohinder Kaur. It is further submitted that it is not the case of the prosecution that the said two petitioners were either the purchaser or the seller of the said 10 grams of heroin. It is further pointed out that the present petition is the second petition and the first petition was withdrawn with liberty to file a fresh petition after removing the errors and thus, is in effect, the present petition is the first petition for grant of anticipatory bail.

Notice of motion.

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

Adjourned to 17.10.2022.

In the meantime, in the event of arrest, petitioners no.2 and 3 are ordered to be released on interim bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioners 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 petitioners has submitted that in pursuance of the abovesaid order dated 12.09.2022, petitioner Nos.2 and 3 have joined the investigation.

Learned counsel for the State, on instructions from ASI Jagdish Singh, has submitted that petitioner Nos.2 and 3 i.e. Mangal Singh and Parkash Kaur, have joined the investigation and are not required for any further custodial interrogation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 12.09.2022 and also the fact that petitioner Nos.2 and 3 have joined the investigation and are not required for further custodial interrogation, the present petition is allowed qua petitioner Nos.2 and 3 and the interim order dated 12.09.2022 is ordered to be made absolute qua petitioner Nos.2 and 3.

The present petition qua petitioner No.1 has already been withdrawn by the learned counsel for the petitioners vide order dated 12.09.2022 passed by this Court.

However, 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 application.

17.10.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No