

CRM-M-46869-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46869-2021
Reserved on: 25.03.2022
Pronounced on: 02.04.2022

Karamjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Choudhary, Advocate for the petitioner.
Ms. Jaspreet Kaur, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
188	03.10.2021	Nihal Singh Walia, District Moga	21/29/61/85 of NDPS Act

1. On being named by the main accused in his custodial interrogation as the seller of the contraband, the petitioner, apprehending arrest for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) as per the FIR captioned above, had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 9 of the bail petition, the petitioner explicitly states that he is not involved in any FIR except the present one. However, the State brought to the notice of this Court about the criminal antecedents. On this Id. Counsel for the petitioner handed over two bail orders regarding the previous criminal history.
3. Order dated 17-11-2020, passed by the learned Judge, Special Court, Moga, is as follows:-

“Heard. As per prosecution allegation, on 13.10.2020 applicant accused was arrested for being in possession of ten grams Heroin. Since then accused-applicant is in custody. Said recovery is not covered under commercial quantity. Presentation of challan & conclusion of trial thereof will take considerable time. No useful purpose will be served by further detention of accused-applicant. As such, bail application filed by accused applicant Karamjit Singh @ Sahil is allowed and he is ordered to be released on bail on his furnishing bail bonds in the sum of Rs.75,000/ with one surety in the like amount, subject to following conditions :

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1. That he shall attend the court on each and every date of hearing;
2. That he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence;
3. That he shall not leave the country without prior permission of court;

File be consigned to the record room.”

4. Order dated 19-08-2019, passed by the learned Chief Judicial Magistrate, Moga, is as follows:-

“Heard on the bail application filed on behalf of accused/applicant in FIR No.157 dated 06.08.2019 registered under Section 61-1-14 of Excise Act at PS City South, Moga. Notice of the present bail application has been given to APP for the State who opposed the present bail application. Perusal of the remand papers shows that accused is in custody since 10.08.2019. Conclusion of trial and presentation of challan shall take some time. As such, no useful purpose would be served by detaining the accused behind the bars rather it would be an extra burden on the State Exchequer. Accordingly, accused is ordered to be released on bail on furnishing his personal bonds and surety bond in the sum of Rs.50,000/- each to the satisfaction of this court/Duty Magistrate. Relevant entry of surety be made in the system.”

5. Ld. Counsel for the petitioner contends that the only evidence against the petitioner is the disclosure statement of the main accused which is inadmissible. Furthermore, the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

6. The contention on behalf of the State is that the mafia from which the petitioner had purchased the drugs is required to be ascertained which can only be done through the custodial interrogation. Further, the petitioner has criminal antecedents, and bail encourages habitual offenders. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

7. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

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8. The petitioner had criminal antecedents which he concealed from this court although the petition is supported by an affidavit. This court is refraining itself from taking any further action for perjury. However, since the petitioner misled this court about previous criminal history of a case under NDPS Act, he is not entitled to anticipatory bail. Furthermore, a perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, then he shall not indulge in criminal behavior. Apart from this, the allegations

9. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 CrPC.

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

2nd April, 2022

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Whether speaking/reasoned:	Yes
Whether reportable:	No.