

CRM-M-42968-2022

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

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Date of decision:28.09.2022

Kiran Kumar @ Karan Kumar @ Aju

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Krishan Singh Dadwal, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.76 dated 16.07.2022, registered at Police Station Haryana, District Hoshiarpur, under Sections 22 and 29 (added later on) NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner has been indicted in the present case on the disclosure statement suffered by co-accused, Gurmit Ram; that the petitioner was not arrested at the spot and, therefore, his culpability is yet to be ascertained; that there is nothing on record to show that the petitioner is indulging in selling the intoxicating material, and that recovery has already been effected.

Learned counsel further submits that in the present case, FSL report has not been received and in absence thereof, it cannot be said that the injections allegedly recovered in the present case, fall within the ambit

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of NDPS Act. In support of his contentions, the learned counsel relies upon the judgments rendered by the Coordinate Benches in Piara Singh vs. State of Punjab, 2019(4) RCR (Criminal) 730, Gursewak Singh @ Sewak Vs. State of Punjab 2019(3) Law Herald 1987, Rajender Singh Vs. State of Haryana, CRM-40431-2021 in CRA-D-1640-DB-2014, decided on 19.01.2022, Sukhdev Singh Vs. State of Haryana, CRM-M-28433-2022, decided on 07.07.2022, Mewa Singh Vs. State of Punjab, CRM-M-12051-2020, decided on 17.06.2020, Daljit Singh Vs. State of Haryana, CRM-M-12997-2020, decided on 16.07.2021', and by this Court in Ram Singh Vs. State of Haryana 2020 (2) Drugs Cases (DC) 519.

I have heard the learned counsel for the petitioner.

As per the prosecution version, co-accused, namely, Gurmit Ram @ Nikka was apprehended by the police whereas the petitioner had managed to run away from the spot. However, recovery of 05 intoxicating injections had allegedly been effected from the polythene envelopes thrown by the accused. During investigation, co-accused Gurmit Ram @ Nikka suffered a disclosure statement that he used to purchase intoxicating injections from the petitioner and further sell the same to the customers.

Indisputably, the petitioner was not arrested at the spot and he has been indicted in the present case on the disclosure statement of co-accused, Gurmit Ram. However, the aforesaid grounds cannot be the sole consideration for grant of pre-arrest bail. As to whether the petitioner has been falsely implicated or not, would be subject matter of the investigation.

The Hon'ble Supreme Court in 'State of Haryana Vs. Samarth Kumar', Criminal Appeal No.1005 of 2002, decided on 20.07.2022, has held that advantage of the fact that no recovery was/is to be effected and

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that the petitioner has been indicted on the disclosure statement of the co-accused, as held in Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1, can be taken into consideration while dealing with the regular bail application or at the time of final hearing after conclusion of the trial.

So far as the case judgments cited by the learned counsel for the petitioner, are concerned, the same are prior to the judgment delivered by the Hon'ble Supreme Court in Samarth Kumar's case (supra). Therefore, the same are not applicable to the present case.

The NDPS Act is a self-contained statute which specifically deals with menace of drugs. Stringent provisions have been provided therein for dealing with such cases. Moreover, the petitioner has as many as five other cases registered or pending against the petitioner under the NDPS Act. In the considered opinion of this Court, the purpose of investigation would stand defeated by allowing the petitioner to join investigation, especially keeping in view his antecedents. Moreover, the criminal antecedents of the habitual offender(s) like the petitioner, which shatter the very tranquility of the collective, do not entitle him to be enlarged on bail.

In view of the above, this Court finds that the petitioner is required for custodial interrogation to ascertain his role and to take the investigation to its logical conclusion.

Therefore, finding no merit in the present petition, the same is dismissed.

28.09.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No