

CRM-M-44117-2022

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

CRM-M-44117-2022

Date of decision: 09.11.2022

Ninder Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Gurinder Singh Hayer, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.82 dated 02.07.2022, registered at Police Station Kot Ise Khan, District Moga, under Sections 22 and 29 NDPS Act, 1985.

Allegation against the petitioner is that co-accused, Gurcharan Singh @ Jyoti had purchased the intoxicating tablets from him (petitioner).

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner was not named in the FIR and rather, has been indicted on the disclosure statement of the co-accused from whom recovery of intoxicating tablets had been effected.

Learned counsel further contends that recovery has already been effected; that there is nothing on record to show that the petitioner is indulging in selling the intoxicating tablets; that in the present case, FSL report has not been received so far and in absence thereof, it cannot be said

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that the intoxicating tablets allegedly recovered in the present case, fall under the category of 'commercial quantity'. In support of his contentions, learned counsel relies upon the judgments rendered by the Coordinate Benches in CRM-M-41493-2022, titled as 'Baldev Raj Vs. State of Punjab', decided on 27.10.2022, and CRM-M-45240-2022, titled as 'Kesar Vs. State of Punjab', decided on 02.11.2022.

I have heard the learned counsel for the petitioner.

As per the case of prosecution, co-accused, namely, Gurcharan Singh @ Jyoti was apprehended and recovery of 320 intoxicating tablets containing Etizolam, had been effected from him. During investigation, the co-accused suffered a disclosure statement that he had purchased the intoxicating tablets from the petitioner.

Indisputably, the petitioner was not arrested at the spot and he has been indicted in the present case on the disclosure statement of the co-accused. 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 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.

In view of the above, this Court finds that the petitioner is

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required for custodial interrogation to ascertain the source of procuring intoxicating tablets and to take the investigation to its logical conclusion.

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

09.11.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No