

204 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-49899-2021

Date of Decision: 03.02.2022

Rajpal Sharma

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dinesh Ghai, Advocate, and
Mr. Nikhil Ghai, Advocate,
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

(Through Video Conferencing)

HARSIMRAN SINGH SETHI J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No.202, dated 31.07.2021, under Section 58 of the NDPS Act, registered at Police Station Lopoke, District Amritsar (Rural).

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order dated 30.11.2021, passed by this Court, which is as under:-

“The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.0202 dated 31.07.2021, registered under Section 58 of NDPS Act, at Police Station Lopoke, District Amritsar(Rural).

Learned counsel for the petitioner argues that the only allegation, which has been alleged against the petitioner is violation of Section 58 of the NDPS Act by contending that though, the seizure of narcotics from

the accused is genuine but the place of the arrest shown by the petitioner is incorrect, which act of the petitioner invites action against him, keeping in view the provisions of Section 58 of the NDPS Act.

Learned counsel for the petitioner submits that nothing is to be recovered from the petitioner and the allegations alleged in the FIR are yet to be proved and, therefore, as the petitioner is ready to join the investigation and cooperate, the petitioner be granted the benefit of anticipatory bail.

Notice of motion.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel does not dispute the fact that even in the inquiry, which has been conducted by the police, the factum of recovery of narcotics from the accused in the said FIR has been found to be genuine and the only dispute is with regard to the place of arrest of the accused. He further concedes that nothing is to be recovered from the petitioner as of now.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances of this case, as nothing is to be recovered from the petitioner, the purpose of investigation can be achieved in case the petitioner is directed to join the investigation as he has undertaken to cooperate with the investigation.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on

interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

- i) That he shall make himself available for interrogation by the police officer as and when required.*
- ii) 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 the said facts to the Court or to any police officer.*
- iii) That he shall not leave India without prior permission of the Court.*
- iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.*

Adjourned to 03.02.2022.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

Learned State counsel, who has also joined the proceedings through video conferencing, on instructions from ASI Sarabjit Singh, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

In view of the above, the order dated 30.11.2021 granting

interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they shall be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

03.02.2022

Apurva

(HARSIMRAN SINGH SETHI)

JUDGE

1. Whether speaking/reasoned: Yes

2. Whether reportable: No