

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

CRM-M-47483-2022

Date of Decision: 22.11.2022

Omkar Singh @ Oma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Monty Goyal, Advocate for the petitioner

Mr.Jaspal Singh Guru, AAG, Punjab

ASHOK KUMAR VERMA, J.

Notice of motion.

On the asking of this Court, Mr. Jaspal Singh Guru, AAG,
Punjab accepts notice.

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in FIR No.0068 dated 5.8.2022 under Sections 22, 29, 61, 85 of the NDPS Act registered at Police Station Hathur, District Ludhiana.

As per prosecution story, co-accused Gurpreet Singh @ Gopi was arrested. Total 4230 intoxicant tablets of Tramadol Hydrochloride 100 mg celcidal 100 SR were recovered from the aforesaid co-accused. During interrogation, the aforesaid co-accused made disclosure statement nominating the petitioner as accused.

Learned Counsel appearing for the petitioner, *inter alia*,

submits that the petitioner was neither present at the spot nor any recovery

has been effected from him. No recovery is to be made from the petitioner. As such his custodial interrogation is not required. Except disclosure statement of his co-accused, there is no evidence against the petitioner. Learned counsel further contends that confessional statement recorded under Section 67 of the NDPS Act is inadmissible. He is already ready and willing to join the investigation.

On the other hand, learned State counsel opposed the petition for grant of anticipatory bail to the petitioner. He submits that the allegations are serious in nature. It is a case falling within the ambit of commercial quantity. Learned counsel submits that one more FIR No.5 dated 11.1.2021 is registered against the petitioner under Sections 22, 25, 29 of the NDPS Act. He further submits that custodial interrogation of the petitioner is required for finding out the source of contraband.

I have heard learned counsel for the petitioner as well as learned State counsel and perused the record.

Perusal of the record shows that a huge cache of contraband i.e. 4230 intoxicant tablets of Celcidal 100 SR having salt Tramadol Hydrochloride has been recovered from the co-accused who has made a disclosure statement nominating the petitioner as a co-accused in the present case.

In State of *Haryana vs Samarth Kumar, 2022 Live Law (SC) 622*, the Hon'ble Supreme Court held that the accused is not entitled for anticipatory bail only on the ground that no recovery was effected from the accused and he has been implicated on the basis of disclosure statement. In *Samrath Kumar's* case (supra) the Hon'ble Supreme Court observed as under:-

advantage of the decision in Tofan Singh vs State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after the conclusion of the trial. To grant anticipatory bail in case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondent.”

The Hon'ble Apex Court in case **State of Punjab Vs. Baldev Singh, 1999 AIR SC 2378** has observed regarding Drug Addiction, Drug abuse and its effect on the society. The Hon'ble Apex Court in Para No.3 has observed as under:

"3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention."

The aforesaid ratio of law has also been reiterated by

the Hon'ble Supreme Court recently in **Sri Thaha Ummer vs. Union of India**, (Criminal Petition No.9450/2022 decided on 9.11.2022).

In view of the above, this Court is of the considered view that for proper investigation; to find any nexus between the petitioner and his co-accused and for knowing the source of contraband, the custodial interrogation of the petitioner is necessary.

Consequently, the present petition being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

22.11.2022

MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No