

CRM-M-47080-2022

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

Sr. No.259

CRM-M-47080-2022

Date of decision : 21.12.2022

Samedeen

.....Petitioner(s)

Versus

State of Haryana

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Inderjeet Singh, Advocate for the petitioner(s)

Ms.Aditi Girdhar, AAG, Haryana

AMAN CHAUDHARY, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.356 dated 11.08.2022, registered under Sections 21, 21B and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

Briefly put, the facts as per FIR are that on the basis of secret information received, the police officials while on patrolling duty at village Kalanaur Bus Stand, apprehended one Shamshad and after due procedure, recovery of 49.36 grams smack was effected from him.

Learned counsel would contend that the the name of the petitioner had been nominated by co-accused Shamshad in his confessional statement made before police, which he submits has no evidentiary value as has been held in the case of **Tofan Singh vs. State of Tamil Nadu**, 2020 AIR (Supreme Court) 5592. The petitioner is not involved any other case of similar nature. The petitioner is ready and willing to join the investigation

and cooperate with the investigating agency. Thus, he prays for grant of anticipatory bail to the petitioner.

Learned State counsel opposes the prayer of the petitioner on the ground that co-accused Shamshad had stated that he had purchased the recovered contraband from the petitioner. In the secret information, it was informed that the said co-accused was doing the work of selling smack (heroin) in Yamuna Nagar by bringing it from UP. Thus, custodial interrogation of the petitioner is required in the instant case to find the source of origin and the entire chain of supply of contraband.

Heard.

It is apposite to make a reference to the order of Hon'ble The Supreme Court of India in the case of **Prabhulal vs. Central Bureau of Narcotics**, wherein the SLP (Crl.) 6722-2022 was dismissed vide order dated 14.12.2022, affirming the order of dismissal of anticipatory bail by Madhya Pradesh High Court, by observing thus:-

“We have heard learned counsel for the parties. We find no reason to grant pre-arrest bail to the petitioner as prayed for. The Special Leave Petition is, accordingly, dismissed.

The interim protection granted by order dated 11.10.2022 stands vacated in view of the dismissal of the special leave petition.

However, if the petitioner surrenders and apply for regular bail, the same may be considered by the Trial Court as expeditiously as possible on its own merits in accordance with law.”

Furthermore in the case of **State of Haryana vs. Samarth**

Kumar, 2022 LiveLaw (SC) 622, Hon'ble The Supreme Court of India has held thus:-

“7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.

8. In cases of this nature, the respondents may be able to take 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 conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into error in granting anticipatory bail to the respondents.

10. In view of the above, the appeals are allowed. The impugned orders are set aside. As a consequence, the Appellate –State is entitled to take steps, in accordance with law.”

In the case in hand, co-accused **Shamshad** had specifically named the petitioner, from whom the contraband had been purchased. It is also the case of the prosecution that the aforesaid co-accused used to get the contraband from UP for the purpose of selling the same in Yamuna Nagar. The sole ground taken by the petitioner for grant of anticipatory bail in view of the judgment in the case of **Tofan Singh** (supra) that the disclosure statement of co-accused is inadmissible, has no force, as per the law laid down by Hon'ble The Supreme Court of India in the cases of **Prabhulal** and **Samarth Kumar** (supra). Thus, the allegations against the petitioner call for

a deeper probe, to unearth the modus operandi, source of origin, chain of supply and find out the involvement of other persons therein, so as to also eradicate the menace of drug proliferating, for which the custodial interrogation of the petitioner is required. The grant of pre-arrest bail in the present case shall be detrimental to the investigation.

The stringent provisions as contained in the statute, are to deal with the drug menace, plaguing the society, as the youth are being led on a path having deleterious effects, thereby destroying the very social fabric.

Keeping in view the aforesaid, this Court is not inclined to grant the concession of anticipatory bail to the petitioner. As a sequel thereto, the present petition being bereft of merit, is hereby dismissed.

21.12.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No