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

CRM-M-51298-2021
Date of decision : 06.04.2022

Gurprit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. J.S. Warring, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.72 dated 17.06.2021 registered under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of NDPS Act has been added later on) at Police Station Dayalpura, District Bathinda.

On 09.12.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR No.72, dated 17.06.2021, having been registered at Police Station Dayalpura, District Bathinda, alleging therein the commission of offences punishable under Sections 22(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Learned counsel for the petitioner submits that the petitioner obviously not having been named in the FIR, he

has been named on an alleged disclosure statement made by a co-accused in police custody, to the effect that the intoxicant tablets recovered from that co-accused were purchased from the petitioner, which is a statement that cannot be accepted in evidence.

He next submits that even the quantity of Tramadol Hydrochloride stated to have been recovered from his co-accused (Jaswant Singh), was found to be only 212.943 grams, which is below commercial quantity, such quantity being above 250 grams.

Though as regards the petitioners' name having been simply added by the police is slightly difficult for this court to accept at this stage at least, in view of the fact that no other criminal case is registered against the petitioner and therefore the police is unlikely to have 'dreamt up' his name; yet, since even the quantity of contra band alleged to have been recovered from his co-accused is not denied to be below commercial quantity by the learned state counsel, the bar under Section 37 of the NDPS Act 1985, may not apply.

The State counsel already being present on advance notice, issuance of formal notice stands waived.

Adjourned to 18.02.2022.

The petitioner, in the aforesaid circumstances, will join the investigation within one week upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases, of like nature or otherwise, pending against the petitioner or not.

Sd/- (AMOL RATTAN SINGH)

JUDGE

December 09, 2021”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 09.12.2021 and subsequent orders passed, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from ASI Kashmir Singh, has submitted that the petitioner has joined the investigation on 12.02.2022 and is not required for any further custodial interrogation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 09.12.2021 and also the fact that the petitioner has joined the investigation on 12.02.2022 and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 09.12.2021 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

06.04.2022

Pawan

(VIKAS BAHL)

JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No