

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

**CRM-M No.48688 of 2022
Date of Decision:- 29.11.2022**

Gurdeep Singh and another

.Petitioners

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. K.B Raheja, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. AG, Punjab.

KARAMJIT SINGH, J.

Prayer is for grant for anticipatory bail to the petitioners in case having FIR No.171 dated 07.08.2022 registered under Section 21 of NDPS Act, 1985 (Section 29/30 of NDPS Act added later on), Police Station Special Task Force, Phase-4, Mohali, District Mohali.

Notice.

On asking of the Court, Mr. Chaman Lal Pawar, Addl. AG, Punjab accepts notice on behalf of the State.

The counsel for the petitioners made prayer for grant of interim bail to the petitioners on the ground that they are not named in the FIR and are nominated as accused on the basis of disclosure statement made by co-accused Jasvir Singh. The counsel for the

petitioners further submits that as per instructions, the petitioners are not involved in any other criminal case and they are ready to join the investigation. In support of his contentions, the counsel for the petitioners placed reliance upon order dated 16.11.2022 passed by the coordinate Bench of this Court in *CRM-M-45624-2022, Kuldeep Singh Vs. State of Punjab*, wherein anticipatory bail has been granted under the similar circumstances to the accused persons. The counsel for the petitioners also referred to *Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1*.

The present petition is resisted by the State counsel who on instructions SI Paramjit Singh apprised the Court that in the present case 600 grams of heroin was recovered from the possession of co-accused Swaran Singh and Jasvir Singh by the police on 07.08.2022 on the basis of secret information and accordingly the FIR was registered in the present case. It is further contended that during the investigation aforesaid Jasvir Singh disclosed that the said heroin was arranged by the present petitioners and one Mohan Singh @ Mohna and as such, both the petitioners are required by the police for proper investigation of the present case. The State counsel further submitted that petitioner No.2 Gursewak Singh is already involved in one another case under NDPS Act. So, prayer is made that the present petition be dismissed.

I have considered the submissions made by counsel for the parties.

Admittedly the petitioners were not named in the FIR which was registered against co-accused Swaran Singh and Jasvir Singh from whom the police recovered commercial quantity of contraband i.e. 600 grams of heroin on 7.8.2022. The names of the present petitioners surfaced on the basis of the disclosure statement made by co accused Jasvir Singh while in police custody. In the light of law laid down by Hon'ble Supreme Court in *criminal appeal No.1005 of 2022, decided on 20.07.2022, State of Haryana Vs. Samarth Kumar*, the petitioners cannot take advantage of decision in Tofan Singh's case (supra) at this stage when they are seeking grant of anticipatory bail. Further, in view of the ratio laid down in *Samarth Kumar's* case supra, the petitioner cannot take any benefit of the order passed by the coordinate Bench of this Court in *Kuldeep Singh's* case supra.

The present case is registered with regard to recovery of commercial quantity of contraband. So rigors of Section 37 of NDPS Act are applicable in the instant case. As has been apprised by the State counsel, petitioner No.2 Gursewak Singh is already involved in one another case under NDPS Act. The custodial interrogation of both the petitioners is necessary for the proper and effective investigation of the case.

In the light of facts and circumstances discussed above, this Court is of the view that the present petition deserves to be dismissed. Accordingly, the same is hereby dismissed. However,

observations made herein above are not be construed as opinion on the merits of the case.

29.11.2022

(KARAMJIT SINGH)
JUDGE

P. Chawla

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