

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

CRM-M-48198-2022 (O&M)

Date of Decision: 12.12.2022

Samual @ Samol

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Tarun Sharma, Advocatge for the petitioner

Mr.JP Ratra, Sr.DAG, Punjab

ASHOK KUMAR VERMA, J.

CRM-46869-2022

This is an application for placing on record Annexure P-3.

Application is allowed as prayed for.

CRM-46870-2022

This is an application for recalling the order dated 16.11.2022 dismissing the main case for non-prosecution. For the reasons recorded therein, the application is allowed and the order dated 16.11.2022 is hereby recalled. Main case is restored to its original number and is taken up for hearing today itself.

CRM-M-48198-2022

Notice of motion.

On the asking of this Court, Mr. J.P. Ratra, Sr. DAG,

Punjab accepts notice on behalf of the respondent-State.

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.0100 dated 15.9.2022 under Section 21 of the NDPS Act registered at Police Station City Zira, District Ferozepur.

The story of the prosecution in brief is that secret informer gave the information that the petitioner and co-accused Sandeep Singh are roaming on motorcycle. They are habitual of selling heroin and if the raid is conducted at the house of co-accused, both of them can be apprehended with the huge quantity of heroin.

Learned Counsel appearing for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in the said FIR. It is very strange that in the presence of the police officials, the petitioner ran away from the spot. Nothing has been recovered from the petitioner. The petitioner is already ready and willing to join the investigation.

On the contrary, learned counsel for the State submits that the petitioner is a habitual offender. Six more FIRs have already been registered against the petitioner and out of 6 FIRs, 3 FIRs have been registered under the NDPS Act. Recovery of 127 grams of heroin has been effected from co-accused Sandeep Singh whereas the petitioner succeeded in running away from the spot.

Having heard learned counsel for the parties, *prima facie*, I am of the considered view that the petitioner has been specifically named in the FIR. The allegations against the petitioner are serious in nature. Moreover, his antecedents are also not good as he is already involved in six more cases also. It has been observed by the Hon'ble Supreme Court

in case **Gudikanti Narasimhulu v. Public Prosecutor, High Court of**

A.P, (1978) 1 SCC 240 that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail. Moreover, Investigation is still going on. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in **Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171**.

In view of the discussion made above, 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

12.12.2022

MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No