

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

103

CRM-M-48373 of 2022

Date of Decision:31.10.2022

Harjinder Singh @ Jinder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Inder Pal Singh, Advocate,  
for the petitioner.

Mr. Amit Rana, Senior DAG, Punjab

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**JASGURPREET SINGH PURI, J. (Oral)**

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.0084 dated 21.08.2022, under Sections 18-29-61 of the NDPS Act, 1985, registered at Police Station Bhikhiwind, District Tarn Taran.

It has been submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case and name of the present petitioner has been nominated on the basis of the disclosure statement made by a co-accused from whom there was an alleged recovery of 300 grams of opium and nothing was recovered from the petitioner and therefore, the petitioner may be considered for grant of anticipatory bail on the ground that the name of the petitioner was nominated on the basis of a disclosure statement of the co-accused which is not admissible in evidence.

On the other hand, Mr. Amit Rana, learned Senior DAG, Punjab has stated on instructions from SI Panna Lal, who is present in Court, that the prayer of the petitioner for the grant of anticipatory bail is not sustainable because of two reasons. Firstly, the petitioner is involved in two more cases under the NDPS Act which he has concealed and the details of the same are as follows:-

|                             |                                        |                                               |
|-----------------------------|----------------------------------------|-----------------------------------------------|
| FIR No.6 dated 07.06.2018   | Under Section 18-61-85 of the NDPS Act | Police Station State Operation Cell, Amritsar |
| FIR No.173 dated 26.09.2021 | Under Section 18 of the NDPS Act       | City Moga, Moga                               |

Secondly, although the name of the petitioner has been nominated on the basis of the disclosure statement made by co-accused such a plea would not be available to the petitioner for grant of anticipatory bail in view of the latest judgment of the Hon'ble Supreme Court in **State of Haryana vs. Samarth Kumar 2022 (3) RCR (CrL.) 991**. He has therefore opposed the grant of anticipatory bail to the petitioner on the aforesaid two grounds.

I have heard the learned counsel for the parties.

The present petition has been filed for grant of anticipatory bail. The petitioner has misled this Court by making a false averment in para 8 of the petition, which is reproduced as under:-

“That no such or similar FIR under NDPS Act or any other offence registered against the petitioner, no court has convicted the petitioner under the N.D.P.S. Act 1985 or any other offence. Petitioner has not been declared Proclaimed Offender in any offence.”

The present petition is also supported by an affidavit of the petitioner himself at page No.7 of the paper-book which is duly sworn in affidavit before the

Notary in which it has been stated that the contents of paras of the petition are true and correct to the best of his knowledge. Paragraphs No.1 and 2 of the affidavit filed by the petitioner are reproduced as under:-

- “1. That the contents of paras of the petition are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therein.
2. That no such or similar petition earlier has been filed by the petitioners before this Hon'ble Court or before the Hon'ble Supreme Court of India.”

A perusal of para 8 of the petition and the affidavit filed by the petitioner would show that the petitioner has not only deliberately concealed the material fact that he is involved in two more cases under the NDPS Act but has rather deliberately misled this Court by specifically stating that no such or similar FIR under NDPS Act or any other offence is registered against the petitioner. The averment is also supported by an affidavit of the petitioner which is false in the light of the details furnished by the learned State counsel to the effect that the petitioner is rather involved in two more cases under the NDPS Act.

Ordinarily this Court ought to have proceeded against the petitioner for perjury but taking a lenient view, this Court is of the view that the petitioner should be burdened with costs for deliberately misleading this Court. Consequently, the present petition is dismissed with costs of Rs.25,000/-. The same shall be paid and deposited by the petitioner with the Chief Judicial Magistrate, Tarn Taran within a period of three months from today. On being deposited the same, the CJM shall transmit the costs to the Punjab State Legal Services Authority. In case the costs are not paid within the aforesaid period, then

the costs shall be recovered from the petitioner as arrears of land revenue in accordance with law.

List this case for compliance purposes only on 15.02.2023.

However, anything observed hereinabove shall not be treated as an expresion of opinion on merits of the case and is only meant for the purpose of decision of present petition.

(JASGURPREET SINGH PURI)  
JUDGE

October 31, 2022  
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|--------------------|---|--------|
| Whether speaking   | : | Yes/No |
| Whether reportable | : | Yes/No |