

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

208

**CRM-M-47643-2022
Date of Decision : 22.11.2022**

Sheshant @ Kaku

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. Kartar Singh, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.526 dated 30.09.2022 registered under Section 21(b) (Section 27-A added later on) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sadar Fatehabad, District Fatehabad.

As per prosecution version, on 30.09.2022, the police party headed by ASI Jaivir Singh, on the basis of suspicion, apprehended accused Virender Singh @ Madu, who is driving Ritz car bearing registration No.HR-22H-5457, in front of Guru Teg Bahadur School on Fatehabad-Bighar road. On search, 20 grams of heroin contained in a piece of polythene was recovered from him. During interrogation, accused Virender Singh @ Madu disclosed the name of co-accused Prince @ Bugar from whom he purchased the recovered heroin and further Prince @ Bugar disclosed the name of petitioner from whom he

purchased the recovered heroin.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case on the basis of disclosure statement made by co-accused Prince @ Bugar which is a very weak type of evidence. The petitioner was not apprehended on the spot and nothing was recovered from him. Even otherwise, the contraband recovered from co-accused Virender Singh @ Madu falls under the category of non-commercial quantity. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is also ready and willing to join the investigation.

On the other hand learned State counsel opposed the present petition in terms of status report dated 31.10.2022 which is already taken on record. Learned State counsel submits co-accused Prince @ Bugar in his disclosure statement stated that he had purchased the alleged contraband recovered from co-accused Virender Singh @ Madu from the petitioner. Therefore, the petitioner does not deserve the concession of anticipatory bail.

I have heard learned counsel for the parties and gone through the record.

Keeping in view the facts and circumstances of the case, the fact that the petitioner was not apprehended on the spot and nothing was recovered from him, the contraband recovered from co-accused Virender Singh @ Madu falls under the category of non-commercial quantity and the fact that there is no other evidence against the petitioner at this stage except the disclosure statement, but without

commenting upon the merits of the case, the present petition for anticipatory bail is allowed and in the event of arrest, the petitioner shall be released on bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. The petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of the Cr.P.C.

It is made clear, in case the petitioner fails to join the investigation, then the State could be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

22.11.2022
Kothiyal

(ASHOK KUMAR VERMA)
JUDGE

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