

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-52814-2021 (O&M)
Date of Decision:-10.3.2022

Alla Banda

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Davneet Sangwan, Advocate for the petitioner.

Mr. Rajiv Sindhu, DAG, Haryana.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.958 dated 23.11.2021 under Section 21-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Yamuna Nagar District Yamuna Nagar.
2. At the time of issuance of notice of motion on 17.12.2021, the following order was passed :

“Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioner in respect of FIR No.958 dated 23.11.2021 registered under Section 21-B of the NDPS Act, 1985 at Police Station Yamuna Nagar, District Yamuna Nagar.

Learned counsel for the petitioner argues that in the present case, no contraband has been recovered from the petitioner and contraband, which has been recovered from the co-accused Nasrin, is being attributed to the petitioner

on the basis of the disclosure statement of the said co-accused. Learned counsel for the petitioner submits that disclosure statement is not admissible in law and as the petitioner is ready to join the investigation and cooperate with the same, he may kindly be extended the benefit of anticipatory bail.

Notice of motion.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, who is present in the Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State submits that co-accused namely Nasrin, from whom the contraband has been recovered, has named the petitioner as a source from where she bought the same though the said allegation is yet to be proved during trial. Learned counsel for the respondent-State further submits that there is other FIR registered against the petitioner for the similar offence.

Learned counsel for the petitioner submits that the petitioner is already on bail in the said case.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the fact that quantity of contraband recovered from the co-accused is not commercial in nature and nothing has been recovered from the petitioner and the petitioner has been roped in the present case only on the basis of the disclosure statement of the co-accused, which is yet to be proved during the course of the trial. The purpose of investigation will be achieved in case the petitioner is directed to join the investigation and cooperate with the same.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

- i) That he shall make himself available for interrogation by the police officer as and when required.
- (ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.
- (iii) That he shall not leave India without prior permission of the Court.
- (iv) That he shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 21.02.2022.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed. ”

3. Learned State counsel has informed that pursuant to interim directions issued by this Court the petitioner has since joined investigation and is not required for any custodial interrogation. Learned State counsel has, however, informed that the petitioner happens to be involved in one more case under the NDPS Act.
4. Having heard the learned counsel for the parties and bearing in mind the facts and circumstances of the case and also that the petitioner has already joined investigation and is not required for any custodial interrogation, the present petition is accepted and the interim directions issued by this Court vide order dated 17.12.2021 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

10.3.2022

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No