

102

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53108-2021

Date of decision: 17.01.2022

Mammandin

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. M.S. Saini, Advocate
for the petitioner.

Mr. Naveen Singh Pawar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J.

Present petition is the second bail petition, seeking anticipatory bail of the petitioner in case FIR No.264 dated 08.10.2020 under Sections 20, 20C, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station City Nuh, District Nuh.

As per the FIR, which had been attached as Annexure P-1, dated 08th October, 2021, it has been stated that when the Police Officials were travelling in government vehicle for patrolling in Ghasera, Ferozepur Namak, they got news of the criminal activity and reached at Palwal Chowk, Nuh from where the secret informer met and information was given to ASI that one person, namely, Mamman, resident of Peepka, who does the work of smuggling cannabis. One Mohammad Ajruddin alias Langda and Tarif, who works as driver and conductor, respectively,

in canter No.NL-01AC-2220, which was used to transport postal parcel and while returning, they brought cannabis leaves from Orissa for Mamman, wherein the rear part of canter was loaded with narcotics substance of cannabis and the same was taken to Taubru via Nuh. Mamman was instructed the above person from the phone and he was in constant touch with that person. If the Police catch the above, the same will be recovered in heavy amount from the canter. Thereafter, upon secret information the Police party tried to join the general public as witnesses but all of them expressed respective reservation and without telling their names, left the spot. Thereafter, notice under Section 42 of the NDPS Act was prepared separately and was given to DSP, Police Headquarter. Thereafter, the aforesaid vehicle No.NL-01AC-2220 was seen to be coming from Nuh towards Hodal and the same was stopped at the barricade with the help of Police colleagues. On the basis of the suspicion the driver of the apprehended vehicle was asked his name and address and he told his name Tariff son of Aas Mohammad and both were served notice under Section 50 of the NDPS Act and were told in their vehicle No.NL-01AC-2220 that there is some suspicion that they have some intoxicating substance in their vehicle and the vehicle is to be searched and you have right to be searched the vehicle in the presence of the Illaqa Magistrate or Gazetted Officer. Thereafter, the Naib-Tehsildar, Akhtar Hussain, Nuh, was called on the spot and the persons, who are apprehended and the witnesses affixed the signatures on the notices. As per the direction of the Gazetted Officer the seal of the door of the canter which was yellow in colour was broken and the cover over the body of the canter was removed which was blue in colour with white stripes and when

the same was removed, then plastic bags which were sealed, were found and thereafter on the instructions of Naib-Tehsildar, the ASI, opened one bag and checked then and as per experience the same was having intoxicating substance Cannabis and after arranging computer weighing machine, the same was weighed and the total weight of the first bag came out 20 Kg 550 gms, which was marked as A1. The second bag was also opened and total weight of the cannabis leaves was found to be 20 Kg 450 gms, which was marked as A2. The third bag was also opened and checked, total weight of cannabis leaves was found 20 kg 400 gms, which was marked as A3. The fourth bag was also opened and checked, total weight of the cannabis leaves was found 20 kg 500 gms, which was marked as A4. The fifth bag was also opened and checked, total weight of the cannabis leaves, was found 20 kg 200 gm which was marked as A5. The sixth bag was also opened and checked, total weight of the cannabis leaves, was found 20 kg 350 gm which was marked as A6. The seventh bag was also opened and total weight of the same came 20 kg 400 gm which was marked as A7. The eighth bag was also opened and total weight of the same came 20 kg 400 gm, which was marked as A8. The ninth bag was also opened and checked, total weight of the cannabis leaves bag, came out to be 20 kg 400 gm, which was marked as A9 and the tenth bag was also opened and checked, total weight of the cannabis leaves bag, came out to be 20 kg 450 gm, which was marked as A10. The place of the incident was also videographed by constable Aman by his phone. Thereafter, seals were fixed at the boxes and were taken into police custody. From one of the aforesaid co-accused, namely, Tariff, one mobile phone of Samsung made, was also recovered and from another

person sitting on the conductor side, who told his name Mohammad Ajruddin alias Langda, also from him one Samsung mobile phone was recovered. These persons were in constant touch with Mamman, who is the main accused. In this way, the total quantity of the recovered cannabis came out to be 204 kg 100 gms and in the aforesaid offence, the petitioner Mamman, resident of Peepka has participated actively.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and thereby he may be considered for grant of anticipatory bail. He submitted that it is the second petition for anticipatory bail and the petitioner has also filed **CRM-M 40873-2021**, titled as “**Mammandin Vs. State of Haryana**”, however, the same was withdrawn by him on 11.11.2021. The order is reproduced as under:-

“Affidavit has been filed by the State which is taken on record.

*The learned counsel for the petitioner has prayed for the withdrawal of the present petition.
Dismissed as withdrawn.”*

Learned counsel for the petitioner submits that he could not attach the earlier order passed by this Court as well as the reply filed by the State in that case and he was not aware of the same as he did not have the document of the same but has prayed that his anticipatory bail may be considered.

On the other hand, Mr. Naveen Singh Pawar, learned Deputy Advocate General, Haryana has submitted that the present petition for anticipatory bail is not maintainable and the petitioner has rather wasted the time of the Court by filing the second petition after about one month without any change of circumstance.

I have heard learned counsel for the parties.

On 06.01.2022, this Court had directed the Registry to attach the main file of the earlier petition filed by the petitioner in CRM-M-40873-2021. The same has been attached by the Registry and has been perused by this Court.

As per the learned counsel for the parties, the earlier anticipatory bail was filed on 28th September, 2021 and the State had filed an affidavit in that case and the counsel for the petitioner had withdrawn the petition on 11th November, 2021 and now the second bail petition has been filed on 13.12.2021 i.e. just after a period of one month. On being asked from the learned counsel for the petitioner as to how the second petition is maintainable after one month when there is no change of circumstance, no justification has come-forth from him. A perusal of both the petitions would show that there has been a change of the counsel only. No change of circumstance has come-forth in the present case. This Court perused the reply filed by the State in the earlier case as well, from where it is seen that the State had taken up its stand that in fact the petitioner, who has been named in the FIR as the main accused, in fact is the main person, who was to receive the huge quantity of contraband about two quintals and although he has been named in the disclosure statement of the co-accused but he has also been named in the FIR although his name has been mentioned as Mamman whereas his actual name is Mammandin. The learned counsel for the parties have submitted that Mamman and Mammandin are one and same person. Even Call Data Records (CDR) of the accused were also taken into possession by the Police from the service provider which shows that he was in constant touch with the co-accused

Mohammad Ajruddin alias Langda through his mobile phone. The petitioner has also transferred Rs.31,500/- through PhonePe in the account of co-accused Azrudin @ Langda, which has been mentioned in Para 9 of the aforesaid affidavit, which was filed in the earlier case wherein the petitioner has filed his bail application.

The second bail application has been filed after withdrawal of the earlier petition after about one month and a detailed affidavit was filed by the State in the earlier case. No change of circumstance has been shown and rather the State has taken up a stand that the petitioner is absconding and his custodial interrogation is required.

In view of the above, there is no merit in the present petition and the same is hereby dismissed.

17.01.2022
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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