

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

**CRM-M-51747 of 2022
Date of Decision:- 08.12.2022**

Jatinder Singh

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Pushp Jain, Advocate
for the petitioner.

Mr. C.L Pawar, Addl. AG, Punjab.

KARAMJIT SINGH, J.(Oral)

Present petition has been filed by the petitioner seeking grant of anticipatory bail in case having FIR No.221 dated 16.10.2022, registered under Sections 18, 61 of Narcotic Drugs and Psychotropic Substances Act, 1985 (later on Section 29 of NDPS Act has been added) at Police Station Civil Lines Patiala, District Patiala.

The counsel for the petitioner submits that the FIR in this case was registered against Kulwinder Singh from whom the police allegedly recovered 2kg 560 grams of opium on 16.10.2022. The counsel for the petitioner further submits that the petitioner is nominated as an accused on the basis of the alleged disclosure statement made by co-accused Kulwinder Singh and the relevancy and admissibility of the said disclosure statement would be tested during the trial. The counsel for the petitioner further submits that

actually co-accused Kulwinder Singh falsely named the present petitioner before the police, as he is having money dispute with regard to purchase of cattle feed from the petitioner. The counsel for the petitioner further submits that the petitioner is not involved in any other case under the NDPS Act and is ready to join the investigation. In support of his contentions, the counsel for the petitioner placed reliance upon Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1.

The present petition is resisted by the State counsel who submits that in the present case 2kg 560 grams of opium was recovered from the possession of co-accused Kulwinder Singh by the police on 16.10.2022 and accordingly the FIR was registered in the present case. It is further argued that during the investigation aforesaid Kulwinder Singh disclosed that the said opium was purchased by him from the petitioner and as such, the petitioner is required by the police for proper investigation of the present case. So, prayer is made that the present petition be dismissed.

However, the State counsel has not disputed the fact that the petitioner is having no criminal antecedents.

I have considered the submissions made by counsel for the parties.

Admittedly the petitioner was not named in the FIR which was registered against co-accused Kulwinder Singh from whom the police recovered commercial quantity of contraband i.e. 2kg 560 grams of opium on 16.10.2022. The name of the present

petitioner surfaced on the basis of the disclosure statement made by co accused Kulwinder Singh while in police custody. In the light of law laid down by Hon'ble Supreme Court in *criminal appeal No.1005 of 2022, decided on 20.07.2022, State of Haryana Vs. Samarth Kumar*, the petitioner cannot take benefit of judgment in Tofan Singh's case (supra) at this stage when he is seeking grant of anticipatory bail.

The present case is registered with regard to recovery of commercial quantity of contraband. So embargo provided under Section 37 of NDPS Act is applicable in the instant case. The custodial interrogation of the petitioner is necessary for the proper and effective investigation of the case by the police.

In light of the above, this Court is of the view that the present petition deserves to be dismissed. Accordingly, the same is hereby dismissed. However, observations made herein above are not be construed as opinion on the merits of the case.

08.12.2022

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No