

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

CRM-M-52490-2022 (O&M)

Date of decision: 15.11.2022

Bablu Jat

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Abhimanyu Batra, Advocate for the petitioner.

Mr. Rupinder Singh Jhand, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in case FIR No.228 dated 11.09.2019, registered under Sections 15 of the NDPS Act, at Police Station Narwana Sadar, District Jind.

Learned counsel for the petitioner submits that the petitioner was neither named in the FIR, nor he was arrested from the spot; that nothing was/is to be recovered from the petitioner; that the petitioner has been indicted in the present case on the basis of the disclosure statement of co-accused, who were apprehended at the spot with the alleged *poppy husk*; that the allegations against the petitioner and other co-accused are that co-accused Jagbir Singh was sitting in a Bolero Car, Hajari Lal was sitting in a Swift car, whereas Sulender Kumar and Naseeb were sitting in the Truck, and they were apprehended from the spot, but the petitioner fled away from the spot and that allegedly, the petitioner was sitting in the Truck and the recovery of 68 kg.

240 gm. of poppy husk was effected from the said truck is slightly above the commercial quantity.

He further submits that presently, the petitioner is confined in District Jail Rajgarh, Madhya Pradesh, in case bearing FIR No. 90 of 2019 registered under the NDPS Act, as despite concession of regular bail he has not been released by the Jail Authorities, as the warrants of the present case are already in their knowledge, but no steps have been taken by the Police to obtain the custody of the petitioner in the present case. The recovery has already been effected in the present case and the co-accused are on bail.

I have heard the learned counsel for the petitioner and have also gone through the documents on record.

In the present case, the co-accused were apprehended with 528 kg. 860 gm poppy husk, which falls under the commercial quantity and the name of the petitioner was involved in the present case on the disclosure statements of the co-accused. The petitioner could not be arrested from the spot, as he fled away from the spot. The petitioner is a habitual offender, as he is also involved in two other cases under the NDPS Act.

The NDPS Act is a self-contained statute which specifically deals with menace of drugs. Stringent provisions have been provided therein for dealing with such cases. The ground that the petitioner was named in the disclosure statement in itself cannot be the sole consideration for grant of pre-arrest bail. A deeper probe is required to unearth the modus operandi and chain of supply. Further, as to whether it is a case of false implication or not, would be a subject matter of investigation.

The Hon'ble Supreme Court in Criminal Appeal No.1005 of 2002 titled as State of Haryana Vs. Samarth Kumar, decided on 20.07.2022,

has held that advantage of the fact that no recovery was/is to be effected from the petitioner and that the petitioner has been indicted on the disclosure statement of the co-accused, as held in Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1, can be taken into consideration while dealing with the regular bail application or at the time of final hearing after conclusion of the trial.

In view of the above, no ground is made out to grant the concession of anticipatory bail to the petitioner.

Dismissed.

15.11.2022	(HARNARESH SINGH GILL)
<i>Mangal Singh</i>	JUDGE
Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No