

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

**CRM-M-54720 of 2022
Date of decision : November 29, 2022**

Suraj Bhan

..... Petitioner

Versus

State of Haryana

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :-Mr. Arpandeep Narula, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.977 dated 2.11.2022, registered for offences punishable under Section 20 of NDPS Act, 1985 registered at Police Station City Sirsa, District Sirsa the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

As per the prosecution version one Vishal was apprehended by the police party carrying a back bag. In compliance of the mandatory provisions he was searched. The said search lead to recovery of 1 kg. 500 grams of ganja. Said Vishal is stated to have nominated the present petitioner to be the source of such contraband and claimed that he was merely a daily wager employed by the present petitioner to sell ganja on daily wages of Rs.500/-.

the ratio of law laid down in **Tofan Singh Vs. State of Tamil Nadu 2021 (4) SCC 1**. such disclosure at the hands of the co-accused Vishal cannot be read to drive home offence against the petitioner. He further submits that he has been denied relief of pre-arrest bail on the basis of another case registered against the petitioner in FIR No.617 of 2020 under Section 20 of NDPS Act which as per him, has also been registered against the petitioner by using the same modus operandi and in the same police station. The contention thus, raised that the false implication of the petitioner in the present case cannot be ruled out.

Mr. Sumit Jain, Addl. Advocate General, Haryana on advance notice has put in appearance and submits that the petitioner is a habitual offender and there is an another FIR against him. He further submits that another FIR in the same police station is not unusual and the same itself will be not be enough to say that the petitioner has been falsely implicated.

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

The law with respect to the application of ratio of law laid down in **Tofan Singh's case (supra)** stands clarified by the Apex Court in the case of **State of Haryana Vs. Samrath Kumar reported as 2022(3) RCR (Crl.) 991** , wherein it has been held that:-

“xx xx xx

8. In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh vs. State of Tamil Nadu (supra), perhaps at

the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.”

Keeping in view the nature of allegations levelled against the petitioner, this Court does not find it to be a fit case for grant of pre-arrest bail.

Resultantly, the present petition is dismissed.

However, keeping in view the fact that the petitioner has been nominated on the disclosure statement made by the co-accused, liberty is granted to the petitioner to surrender before the concerned court and to seek admission on regular bail, if so advised. In case, the petitioner surrenders and opts to file an application seeking the admission on bail, the same shall be dealt with in accordance with law.

(PANKAJ JAIN)
JUDGE

November 29, 2022

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Whether speaking/reasoned Yes

Whether Reportable : No