

216 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-55293-2022
Date of Decision: 21.12.2022

SATNAM SINGH

.....Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amandeep Sharma, Advocate for
Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Jashandeep Singh, Assistant A.G. Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed for grant of anticipatory bail to the petitioner in case FIR No. 125 dated 10.10.2022 under Section 22(c), 25 & 29 of NDPS Act, registered at Police Station Batala, District Gurdaspur.

Short reply by way of affidavit of Deputy Superintendent of Police, Sub Division, Sri Hargobindpur, Police District Batala has been filed on behalf of respondent-State. The same is taken on record.

Copy of the reply has been supplied to the learned counsel for the petitioner.

Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case and his name has been nominated on the basis of a disclosure statement made by co-accused and the disclosure statement of the co-accused is not admissible in evidence per se and therefore, he may be considered for grant of anticipatory bail.

On the other hand, the learned State counsel on the basis of affidavit filed by the DSP submitted that it is a case where two co-accused were apprehended on the spot and there was a recovery of 3800 intoxicating tablets without label and 1400 intoxicating make Proxymed spas and the same has now been sent to the FSL laboratory for examination. He submitted that huge quantity has been recovered from the co-accused which falls under the category of commercial quantity and during investigation it was found that the said contraband was supplied by the petitioner to the other co-accused and therefore, the mere fact that his name has been nominated on the basis of disclosure statement of the co-accused would not mean that he is entitled for the grant of anticipatory bail.

Learned State counsel has also referred to judgment of Supreme Court in *State of Haryana Vs. Samarth Kumar, 2022(3) RCR (CrL) 991* and submitted that in such like matters where the prayer is for grant of anticipatory bail and not regular bail then the fact that the name of the petitioner was nominated on the basis of disclosure statement of the co-accused does not vest the right in the accused for grant of anticipatory bail. He further referred to para No.7 of the reply filed by the DSP and submitted that the petitioner is involved in 5 more cases out of which 3 cases pertain to NDPS Act and in one case FIR No.254 dated 17.12.2009, the petitioner has already been convicted under the NDPS Act for a sentence of 10 years. He has further submitted that the petitioner himself has stated in para No.10 that he is involved in one other case under the NDPS Act although the same has not been stated in the affidavit filed by the DSP. He submitted that the petitioner has actively concealed the pendency of the other FIR against him including another aforesaid FIR

No.254 dated 17.12.2009 whereby he has already been convicted under the NDPS Act and therefore the petitioner has concealed material facts from this Court and therefore he is not entitled for grant of anticipatory bail. He further submitted that it is a case where the petitioner had supplied the contraband to the other co-accused and for the purpose of ascertaining the source of contraband and for elicitation of truth, his custodial interrogation is required.

I have learned counsel for the parties.

It is a case where allegation against the petitioner was that he had supplied the recovered contraband to the other accused from whom recovery was made. The name of the petitioner was nominated on the basis of the disclosure statement of the co-accused. However, in the present petition the prayer is made for grant of anticipatory bail. The Hon'ble Supreme Court in judgment *State of Haryana Vs. Samarth Kumar* (*Supra*) has observed that there is a difference between the prayer for grant of anticipatory bail and the grant of regular bail. When the prayer is made for the grant of anticipatory bail then even if the name of the petitioner/accused is nominated on the basis of the disclosure statement of a co-accused that itself cannot become a ground for grant of anticipatory bail.

Apart from the above, the petitioner in para No.7 of the present petition has stated that he is involved in one other case under the NDPS Act whereas as per the affidavit filed by the State he is involved in 5 more cases out of which 3 are pertaining to NDPS Act and out of those 3 cases he has been convicted in one case under the NDPS Act. The only FIR which has been mentioned by the petitioner in para No. 10 has not been so stated in the affidavit. Be that as it may, it appears from the face of it that the petitioner has

not only concealed the material facts but has also misled this Court by not disclosing the other FIRs in which he is under trial and particularly the FIR under NDPS Act in which he has been since convicted. The present petition is also supported by affidavit of the petitioner in which the petitioner has stated that the statement of facts made in the petition are true and correct to his knowledge.

Apart from the above, the arguments raised by the State counsel that the custodial interrogation of the petitioner is required for the elicitation of truth as he had supplied the contraband and he is involved in many other cases does carry weight and cannot be ignored.

In view of the aforesaid facts and circumstances, finding no merit in the present petition, the same, is hereby, dismissed.

However, anything observed herein above shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

21.12.2022
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(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No