

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

**CRM-M-55294-2022
Date of Decision: 30.11.2022**

Kashmir Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Satpal Singh Sidhu, Advocate
for the petitioner

Mr.J.P.Ratra, Sr.DAG, Punjab

ASHOK KUMAR VERMA, J.

The instant petition under Section 438 Cr.P.C. has been preferred by petitioners for grant of pre-arrest bail, in the event of their appearance before the trial court in case FIR No.29 dated 2.4.2020 under Sections 18, 25 of the NDPS Act, 1985 registered at Police Station Mamdot, District Ferozepur.

Learned counsel for the petitioner, inter alia, contends that the petitioners who are about 72 and 74 years old, have been falsely implicated in the present FIR. The petitioners have not been named in the FIR. Co-accused Jaspinder Singh was arrested from the spot and green poppy husk weighing 55.5 kgs was found at spot. On investigation, Jaspinder Singh was found to be innocent and one Lakhwinder Singh was nominated as accused on 4.4.2020 and arrested by the Police. Jaspinder Singh was discharged from the present case on the basis of enquiry report. Though there are no allegations against the petitioner that they have committed any crime but during pendency of trial, prosecution has examined PW1- Rajni Bala, Revenue Patwari who deposed that as per

record, the land is in the ownership of Kashmir Singh and Balbir Singh i.e. the present petitioners. After deposition of PW1, application under Section 319 of the Cr.P.C. was moved against the petitioners and aforesaid Jaspinder Singh and the trial court summoned the petitioners and Jaspinder Singh as additional accused vide its order dated 26.9.2022 (Annexure P-2). Learned counsel submits that on investigation, it was found that the land from which the alleged recovery was effected falls within the share of Lakhwinder Singh. Thus the petitioners have not committed any crime. Learned counsel submits that the petitioners are already ready and willing to join the proceedings.

Notice of motion.

On the asking of the Court, Mr. J.P.Ratra, Sr.DAG, Punjab accepts notice on behalf of the State of Punjab.

Learned counsel for the State vehemently opposes the grant of anticipatory bail to the petitioner on the ground that he has been summoned by the trial court.

I have heard learned counsel for the parties and gone through the paper-book.

Admittedly, the petitioners are old aged persons. They have not been named in the FIR. Even on investigation by the police, the petitioners have not been nominated as accused. It was after deposition of PW1 before the trial court, application under Section 319 of the Cr.P.C. was moved against the petitioners and aforesaid Jaspinder Singh and the trial court summoned the petitioners and Jaspinder Singh as additional accused vide its order dated 26.9.2022 (Annexure P-2). Moreover, if accused show their sincere intention and desire to join the criminal proceedings, then it would be justified to protect them from being

arrested.

Keeping in view the above fact, the petitioners are directed to appear/surrender before the trial Court on 7.12.2022, the date already fixed before the trial court. On doing so, the petitioners shall be released on bail, subject to their furnishing fresh bail/surety bonds to the satisfaction of the trial Court. In case of failure to do so, this petition for anticipatory bail shall be deemed to have been dismissed.

Disposed of.

(ASHOK KUMAR VERMA)
JUDGE

30.11.2022

MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No