

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

**CRM-M No.55924 of 2022 (O&M)
Date of decision : 02.12.2022**

Gurlal Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Neeraj Yadav, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

The petitioner has prayed for grant of pre-arrest bail in FIR No.0106 dated 24.09.2022 registered under Sections 21, 29 of the NDPS Act, 1985 and Section 25(6), 25(7) (i) of Arms Act, 1959, at Police Station Bhikhiwind, District Tarn Taran.

As per the case of the prosecution, it has been alleged that :-

“Police record received and perused. As per prosecution version, on 24.09.2022, a police party headed by SI Charan Singh was present at bridge drain Pahuwind; there a secret information was received that Harjinder Singh @ Thorhi (applicant/accused), Jora Singh, Gurlal Singh, Balraj Singh (lodged in Faridkot Central Jail) and Bikramjit Singh @ Gora along-with other persons had formed a gang and these people used to smuggle heroin and weapons from Pakistan through drone and distribute the same in different parts of Punjab. On the basis of this secret information, the present case was registered against the accused.

Further prosecution version is that during investigation, the co-accused Harjinder Singh made a disclosure statement that he is indulging in illicit trade of selling heroin since a long time. He used to smuggle the heroin with the help of Jora Singh s/o Baj Singh, Gurlal

Singh (applicant/accused) s/o Karaj Singh and Bikram Singh @ Gora, Balraj Singh s/o Balbir Singh, who are in jail. They used to smuggle heroin and ammunition by Internet calling from Pakistan with the help of drone.”

Learned counsel for the petitioner does not dispute that co-accused namely Harjinder Singh @ Thorhi and Jora Singh were apprehended and recovery of Narcotic Drug was made from them. Harjinder Singh @ Thorhi suffered a disclosure wherein the petitioner has been specifically named. He submits that the petitioner cannot be nominated merely on the basis of disclosure and such disclosure suffered by the co-accused cannot be laid to drive home offence against him. Reliance is being placed upon the law laid down by the Apex Court in ***Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1.***

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

Even though recovery has not been made from the petitioner but it has come on record that recovery effected from the co-accused would *prima-facie* fall within the commercial quantity as notified under the Act. Benefit of ***Tofan Singh's case (supra)*** also cannot be extended at this stage while considering pre-arrest bail of petitioner in view of ***Samarth Kumar's case (supra)*** wherein Apex Court held as under :-

“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.”

In view of the aforesaid, no ground to grant pre-arrest bail to the petitioner is made out. Consequently, the same is ordered to be dismissed.

Needless to say nothing recorded hereinabove should be construed as expression on merits of the case.

(PANKAJ JAIN)
JUDGE

02.12.2022
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No