

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 56713-2022

Date of Decision: 6.12.2022

Rakesh Kumar

...Petitioner

Versus

State of Haryana

...Respondents

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Ajit Sehag, Advocate for the petitioner

Mr.Munish Sharma, AAG, Haryana

ASHOK KUMAR VERMA, J.

The petitioner has filed this petition seeking grant of anticipatory bail in case FIR No.418 dated 18.11.2022 under Sections 21-b, 61, 85 of the NDPS Act registered at Police Station Uklana, District Hisar.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner is sought to be implicated on the basis of disclosure statement made by co-accused Ajay Kumar. No recovery has been effected from the petitioner. Except disclosure statement of his co-accused, there is no legal evidence against the petitioner. Learned counsel further contends that confessional statement recorded under Section 67 of the NDPS Act is inadmissible, in view of the law laid down by the Hon'ble

Supreme Court in *Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1*.

Learned counsel also submits that 8.21 grams of smack is alleged to have been recovered from co-accused- Ajay Kumar which falls within non-commercial quantity. The petitioner is already ready and willing to join the investigation.

Notice of motion.

On the asking of this Court, Mr.Munish Sharma, AAG, Haryana accepts notice on behalf of the respondent-State.

Learned counsel for the State vehemently opposes the grant of anticipatory bail to the petitioner on the ground that his name has been disclosed by the main accused.

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

Apparently, the petitioner is sought to be implicated on the basis of disclosure statement made by co-accused Ajay Kumar. No recovery has been effected from the petitioner. Except disclosure statement of his co-accused, there is no other evidence against the petitioner. The smack alleged to have been recovered from co-accused- Ajay Kumar falls within non-commercial quantity.

Considering overall facts and circumstances of the present case, this petition is disposed of with a direction to the petitioner to join investigation and remain present for investigation, as and when called for. In the event of arrest, the petitioner shall be released on bail on furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the conditions as specified under Section 438 (2) Cr.P.C. In case the

petitioner fails to adhere to the terms and conditions as envisaged in this order, the State would always be at liberty to revive this petition by filing an application in this regard.

(ASHOK KUMAR VERMA)
JUDGE

06.12.2022
MFK

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>