

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

CRM-M-56785-2022

Date of decision: 19.12.2022

Nishant

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Rahul Kumar Adia, Advocate,
for the petitioner.

Mr. Gurlal Singh Dhillon, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.277 dated 27.10.2022, registered at Police Station Model Town, Hoshiarpur, under Sections 22 and 29 NDPS Act, 1985.

Status report dated 19.12.2022, by way of affidavit of the Deputy Superintendent of Police, Sub Division City, District Hoshiarpur, filed in the Court today, is taken on record.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner has been indicted in the present case on the disclosure statement of co-accused, Nitish Kumar alias Nishu from whom 1120 intoxicating tablets wrapped in a polythene bag, had been recovered. He further contends that the aforesaid co-accused has since been granted the concession of regular bail by learned Addl. Sessions Judge, Hoshiarpur, vide order dated 09.12.2022.

On the other hand, learned State counsel, while opposing the

grant of bail to the petitioner, submits that recovery effected in the present case, falls under the 'commercial quantity'.

I have heard the learned counsel for the parties.

As per the case of prosecution, recovery of 1120 intoxicating tablets was allegedly effected from co-accused, Nitish Kumar.

Indisputably, the petitioner was not arrested at the spot and he has been indicted in the present case on the disclosure statement of the co-accused. However, the aforesaid grounds cannot be the sole consideration for grant of pre-arrest bail. As to whether the petitioner has been falsely implicated or not, would be subject matter of the investigation.

The Hon'ble Supreme Court in 'State of Haryana Vs. Samarth Kumar', Criminal Appeal No.1005 of 2002, decided on 20.07.2022, has held that advantage of the fact that no recovery was/is to be effected and that the petitioner has been indicted on the disclosure statement of the co-accused, as held in Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1, can be taken into consideration while dealing with the regular bail application or at the time of final hearing after conclusion of the trial. The petitioner cannot claim parity with co-accused Nitish Kumar for the reason that he has been granted the benefit of regular bail.

The NDPS Act is a self-contained statute which specifically deals with menace of drugs. Stringent provisions have been provided therein for dealing with such cases.

In view of the above, this Court finds that the petitioner is

required for custodial interrogation to ascertain his role and to take the investigation to its logical conclusion.

Therefore, finding no merit in the present petition, the same is dismissed.

19.12.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No