

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

**CRM-M-57187 of 2022
Date of Decision:- 08.12.2022**

Ajay

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. M.S. Saini, Advocate
for the petitioner.

Mr. C.L Pawar, Addl. AG, Punjab.

KARAMJIT SINGH, J.(Oral)

Present petition has been filed by the petitioner seeking grant of anticipatory bail in case having FIR No.136 dated 24.11.2022, registered under Section 21, 29, 61, 85 of Narcotic Drugs and Psychotropic Substances Act, at Police Station Chabbewal, Hoshiarpur (Punjab).

Notice of motion.

On asking of the Court, Mr. Chaman Lal Pawar, Addl. AG, Punjab accepts notice on behalf of the State.

The counsel for the petitioner inter alia submits that the FIR in this case was registered against Jaswinder Sidhu from whom the police allegedly recovered 253 grams of heroin on 24.11.2022. The counsel for the petitioner further submits that the petitioner is nominated as an accused on the basis of the alleged disclosure

statement made by co-accused Jaswinder Sidhu and the relevancy and admissibility of the said disclosure statement would be tested during the trial. The counsel for the petitioner further submits that the petitioner is not involved in any other case under the NDPS Act and is ready to join the investigation. In support of his contentions, the counsel for the petitioner placed reliance upon *Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1*.

The present petition is resisted by the State counsel who submits that in the present case 253 grams of heroin was recovered from the possession of co-accused Jaswinder Sidhu by the police on 24.11.2022 and accordingly the FIR was registered in the present case. It is further contended that during the investigation aforesaid Jaswinder Sidhu disclosed that the said heroin was arranged by the present petitioner and as such, the petitioner is required by the police for proper investigation of the present case. The State counsel further submitted the petitioner is involved in number of other criminal cases. So, prayer is made that the present petition be dismissed.

I have considered the submissions made by counsel for the parties.

Admittedly the petitioner was not named in the FIR which was registered against co-accused Jaswinder Sidhu from whom the police recovered commercial quantity of contraband i.e. 253 grams of heroin on 24.11.2022. The name of the present petitioner surfaced on the basis of the disclosure statement made by co accused

Jaswinder Sidhu while in police custody. In the light of law laid down by Hon'ble Supreme Court in *criminal appeal No.1005 of 2022, decided on 20.07.2022, State of Haryana Vs. Samarth Kumar*, the petitioner cannot take advantage of decision in Tofan Singh's case (supra) at this stage when he is seeking grant of anticipatory bail.

The present case is registered with regard to recovery of commercial quantity of contraband. So rigors of Section 37 of NDPS Act are applicable in the instant case. The custodial interrogation of the petitioner is necessary for the proper and effective investigation of the case.

In the light of facts and circumstances discussed above, this Court is of the view that the present petition deserves to be dismissed. Accordingly, the same is hereby dismissed. However, observations made herein above are not be construed as opinion on the merits of the case.

08.12.2022

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No