

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60570-2022
Date of decision : 23.12.2022

Bablu

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Namit Khurana, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

Prayer is for pre-arrest bail in FIR No.511 dated 30.06.2021, registered for the offences punishable under Sections 20C/25-61-85 of NDPS Act, at Police Station City Karnal, District Karnal.

2. Counsel for the petitioner submits that on the basis of one disclosure, two different FIRs have been registered. Even though, the petitioner was not named in the initial FIR, yet he has been nominated merely on the basis of disclosure suffered by Ashwani Kumar. He further relies upon ratio of law laid down in *Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1* to contend that the disclosure made by co-accused cannot be relied upon to drive home offence against the present petitioner and thus he would be entitled for pre-arrest bail.

3. Law w.r.t. grant of concession vis-a-vis Section 37 w.r.t. nomination on the basis of disclosure already stands settled by Apex Court in *State of Haryana Vs. Samarth Kumar (2022) 3 RCR Cri.991*, wherein it has been held that:-

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in *Tofan Singh v. State of Tamil Nadu reported in (2021) 4 SCC 1*.

“xxx xxx xxx

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.”

4. Thereafter another matter involving nomination of an accused on the disclosure of co-accused came before the Apex Court in the case of *Prabhulal Vs. Central Bureau of Narcotics* in Special Leave to Appeal (Criminal) No.6744/2022. Apex Court vide order dated 11.10.2022 granted interim protection to the petitioner therein. However, admittedly the same finally resulted in dismissal of the prearrest bail vide order dated 14.12.2022.

5. In view of the aforesaid facts and the ratio of law laid down by the Apex Court in the case of Samarth Kumar's case (supra), it can be safely concluded that the benefit of ratio of law laid down in the case of Tofan Singh's case (supra) cannot be granted to an accused while considering pre-arrest bail.

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

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

(PANKAJ JAIN)
JUDGE

23.12.2022
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No