

208 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-33-2023
Date of Decision: 15.03.2023

Gurbir Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Paramjit Singh Jammu, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER J. (ORAL)

The present petition under Section 438 of the Code of Criminal Procedure is filed seeking grant of anticipatory bail to the petitioner in case FIR No.378 dated 17.12.2022 (Annexure P-1), under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Babain, District Kurukshetra.

On 13.01.2023, the following order was passed by this Court :-

“The instant petition has been filed under Section 438 Cr.P.C with a prayer for grant of anticipatory bail to the petitioner in case FIR No.378 dated 17.12.2022 (Annexure P-1) under Section 15 of NDPS Act, 1985 registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner submits that the present petitioner is innocent as he has no concern with the alleged offence. It is submitted that the instant case FIR was registered on the basis of a secret information that Sewa Singh son of Jagdish Singh resident of village Gajlana,

Babain District Kurukshetra is doing the business of selling poppy husk in his fields in his tubewell room and in case a barricade is laid on the katcha rasta leading from village Gajlana to village Badtoli then said Sewa Singh can be apprehended with poppy husk. It is submitted that the petitioner is not named in the FIR and has been falsely implicated only on the basis of second disclosure statement of co-accused Sewa Singh from whom an alleged recovery of 2 kg 500 grams of poppy husk was made. It is submitted that in the alleged disclosure statement, Sewa Singh is said to have stated that he had purchased 5 kg of poppy husk from petitioner; which is false as petitioner has no concern with the alleged crime. It is stated that Sewa Singh had borrowed Rs.27,000/- from petitioner and only to escape his liability from returning this amount, Sewa Singh has falsely named petitioner. It is further submitted that the alleged recovery of 2 kg 500 grams of poppy husk is non-commercial and hence, rigours of Section 37 are not attracted to this case. Learned counsel for petitioner submits that there is no other case against the petitioner and he is ready and willing to join the investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

Learned counsel appearing on behalf of the State opposes the petitioner's plea for bail on the ground of seriousness of the offence and increasing menace of drug trafficking. It is accordingly submitted that petitioner does not deserve the concession of anticipatory bail.

Adjourned to 15.03.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, he shall join the investigation as and when directed by the Investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner submits that pursuant to the

aforesaid order, petitioner has joined the investigation.

Learned State counsel, on instructions from Assistant Sub Inspector Jasbir Singh, has not disputed the aforesaid fact of joining the investigation by petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, order dated 13.01.2023, passed by this Court, is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that if the petitioner fails to comply with any of the directions issued above and the bail conditions, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Present petition is accordingly disposed of.

15.03.2023*Apurva***(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No