

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-328-2023

Date of Decision: *January 24, 2023*

Vijay Phutela

... *Petitioner*

Versus

State of Haryana

... *Respondent*

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Dheraj Narula, Advocate,
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Vivek Puri, J.

The petitioner is seeking anticipatory bail in the case FIR No. 345, dated 01.12.2022, under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Ding, District Sirsa.

Status report by way of an affidavit of Dharamvir, HPS, Deputy Superintendent of Police, Sirsa on behalf of respondent has been filed in Court today and the same is taken on record.

Briefly, the FIR has been registered in pursuance of the recovery of 22 grams of heroin from the possession of Rajesh @ Ghola, co-accused.

Learned counsel for the petitioner contends that the petitioner has been nominated on the basis of the

disclosure statement of Rajesh @ Gholia, co-accused on the ground that the contraband was provided to the co-accused by the petitioner.

Learned State counsel has opposed the bail application on the score that the custodial interrogation of the petitioner is essential for the proper investigation of the case and furthermore, he is involved in the following cases:-

- 1) FIR No. 630, dated 12.08.2015, u/s 21/61/85 NDPS Act, P.S. City Sirsa;
- 2) FIR No. 600, dated 05.10.2016, under Sections 21/61/85 NDPS Act, PS City Fatehabad.
- 3) FIR No. 72, dated 18.05.2017, under Sections 21b/27-A/61/85 NDPS Act, PS Ding;
- 4) FIR No. 1254, dated 27.12.2018, under Section 21 NDPS Act, PS City Sirsa;
- 5) FIR No. 283, dated 04.10.2022, under Sections 21/61/85 NDPS Act, PS Ding;
- 6) FIR No. 1081, dated 04.11.2014, under Sections 285/427/148/149/506 IPC, PS City Sirsa.

It has been stated by the learned counsel for the petitioner that the petitioner has been acquitted in three cases i.e. Sr. No. 1,3 and 6.

It has been also argued by the learned State counsel that in view of Hon'ble Supreme Court's decision rendered in ***State of Haryana vs. Samarth Kumar***,

2022(3) R.C.R. (Crl.) 991, the petitioner is not entitled to the anticipatory bail.

It is significant to note that the petitioner is involved in 3 other cases and furthermore, in terms of **Samarth Kumar's case** (supra), the petitioner cannot be held entitled to the relief of anticipatory bail on the score that he has been nominated only on the basis of the disclosure statement of Rajesh @ Gholia, co-accused. The matter requires thorough probe and investigation.

Keeping in view the entire circumstances and the antecedents of the petitioner, no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

Instant petition is dismissed, accordingly.

January 24, 2023
vk

(Vivek Puri)
Judge

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No