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

CRM-M-934-2023

Date of Decision: 27.03.2023

Sukhvinder

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Nimanyu Gautam, Advocate for
Mr. Amit Parashar, Advocate for
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C.
is for grant of anticipatory bail to the petitioner in case FIR No.223 dated
09.08.2022, under Sections 20(B) and 29 of the Narcotic Drugs and
Psychotropic Substances Act, 1985, registered at Police Station Civil Line,
Jind (Annexure P-1).

On 02.02.2023 the following order was passed by this Court :-

*“Prayer in the present petition, filed under Section 438
of the Code of Criminal Procedure, is for grant of anticipatory
bail to the petitioner in case FIR No.223 dated 09.08.2022
registered under Sections 20(B) and 29 of Narcotic Drugs and
Psychotropic Substances, 1985, registered at Police Station
Civil Line, Jind (Annexure P-1).*

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present FIR. Learned counsel for the petitioner further submits that the petitioner has been nominated as co-accused on the basis of the disclosure statement of accused Sanjay @ Sanju who was arrested by the Police and 10 kgs of Ganja was recovered from him, which is non-commercial quantity, hence, rigors of S.37 of NDPS are not attracted. It is submitted that Sanjay @ Sanju has wrongly named petitioner, as the petitioner had given Rs. 4,50,000/- to one Govind who is the elder brother of Sanjay @ Sanju and when petitioner asked them for return of said amount then they quarreled with petitioner. It is further submitted that co-accused Sanjay @ Sanju has already been granted regular bail by Additional Sessions Judge, Jind vide order dated 18.10.2022, a copy whereof has been handed over in Court today and the same is taken on record, subject to all just exceptions. It is submitted that the petitioner is not named in any other case under NDPS Act and also nothing has to be recovered from him. Learned counsel submits that the bail application moved by him under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by Additional Sessions Judge, Jind, vide its order dated 24.11.2022. It is also submitted that the petitioner is ready and willing to join 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, however, it is not disputed that the petitioner is nominated as accused on the basis of disclosure statement of Sanjay @ Sanju who has already been granted regular bail. It is also not disputed that the alleged recovery from Sanjay @ Sanju is non-commercial and rigors of S.37 of NDPS Act are not attracted.

List on 27.03.2023.

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, the petitioner has joined the investigation.

Learned State counsel on instructions from ASI Mukesh Kumar has not disputed the aforesaid fact of joining of investigation by the 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, the present petition is allowed and the ad-interim order dated 02.02.2023 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) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

27.03.2023

Himani

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No