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

CRM-M-1262-2023
Date of Decision: 13.03.2023

Mandeep Singh @ Deepu

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Kulwinder Singh, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No.193 dated 16.12.2022, under Section 21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 (later on offence under Sections 27 and 29 of the NDPS Act has been added), registered at Police Station City-1, Mansa, District Mansa.

On 17.01.2023 the following order was passed by this Court :-

"CRM-1496-2023

This is an application for placing on record order dated 21.12.2022 passed by the Juvenile Justice Board, Mansa, as Annexure P-3. Criminal Misc. Application is allowed, as prayed for and Annexure P-3 is taken on record, subject to all just exceptions.

CRM-M-1262-2023

Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.193 dated 16.12.2022,

registered under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act (later on offence under Sections 27 and 29 of the NDPS has been added), at Police Station City-1, Mansa, District Mansa.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the case. It is submitted that the petitioner is not named in the FIR, however, he has been nominated as an accused in this case on the allegation that co-accused Lalli Singh had purchased heroin from him, whereas, he has no concern or connection with the alleged recovery. Learned counsel also submits that the alleged recovery of 5 grams heroin has already been effected from co-accused of the petitioner, who was named in the FIR and he has been granted concession of bail by the Juvenile Justice Board, Mansa vide order dated 21.12.2022. It is submitted that though nothing is to be recovered from the petitioner, yet 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 learned Special Court, Mansa, vide order dated 06.01.2023. Learned counsel 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/trial Court.

Notice of motion.

On the asking of the Court, Mr. Vinay Kumar Gupta, Assistant Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and files the status report by way of an affidavit of Sh. Sanjeev Goyal, PPS, Deputy Superintendent of Police, SubDivision Mansa, District Mansa, which is taken on record, subject to all just exceptions.

Learned State counsel opposes the petitioner's prayer for interim anticipatory bail on the ground of seriousness of offence and submits that except the present case, two other cases i.e. FIR No.75 dated 22.05.2019 under Sections 336, 323, 506, 427, 148, 149 of the IPC read with Section 25 of the Arms Act and FIR No.209 dated 30.12.2021 under Section 61 of the Excise Act, both registered at Police Station City-1, Mansa, are there against the petitioner and hence, he does not deserve the concession of anticipatory bail.

Keeping in view the fact that no recovery was effected from the petitioner and his name had figured in a disclosure statement of accused Lalli Singh; coupled with the fact that the main accused namely, Lalli Singh has already been granted concession of bail by the Juvenile Justice Board, Mansa vide order dated 21.12.2022, this Court is inclined to grant interim

bail to the petitioner.

List on 13.03.2023.

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.

A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.

Learned State counsel on instructions from Head Constable Harpal Singh 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 17.01.2023 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) 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.

13.03.2023
Himani

(HARSH BUNGER)
JUDGE

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