

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-1981-2023

Date of Decision: *February 22, 2023*

Amritpal

... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Lavanya Gupta, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Vivek Puri, J.

The petitioner is seeking anticipatory bail in the case bearing FIR No. 212, dated 28.10.2022, under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substances Act (for short 'NDPS Act'), registered at Police Station Jagraon.

Briefly, as per the allegations, the FIR has been registered in pursuance of the receipt of secret information to the effect that Sukhwinder Singh @ Sukha is coming to Jagraon side in a car bearing registration No. HR-26-AT-4564 after purchasing heroin in large quantity. He used to supply heroin to Jagtar Singh @ Tari, Harpreet Singh @ Gulzari and Amritpal Singh @ Pali, petitioner. If a raid is conducted, the aforesaid four persons can be apprehended along with heroin. Consequently, a raid was conducted and

four persons were spotted while sitting in a car. On seeing the police party, one person managed to slip away. The driver of the car disclosed his identity as Sukhwinder Singh @ Sukha and the two persons revealed their name as Harpreet Singh and Jagtar Singh @ Tari. 255 grams of heroin was recovered from the car.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contends that there is no incriminating evidence against the petitioner to indicate that he was present at the spot and even the physical description of the person who slipped away has not been specified. Moreover, as per the alleged confession made by Jagtar Singh, co-accused, who is the father of the petitioner, it has emerged that the petitioner had managed to slip away from the spot. The confession has been taken by coercion and is not admissible in the eyes of law.

Learned State counsel has opposed the bail application on the score that the petitioner has been specifically and categorically named in the FIR. On seeing the police party, he managed to slip away from the spot. The petitioner has also been nominated as an accused on the basis of the disclosure statement of the co-accused, Jagtar Singh, who is none other than his father. The petitioner has been convicted in the case bearing FIR No. 10, dated

29.01.2016, under Section 21 of the NDPS Act, registered at Police Station Kot Ise Khan and FIR No. 362 dated 03.11.2017, under Section 61 of Excise Act, registered at Police Station Sidhwan Bet. Besides, he is also under trial in the case bearing FIR No. 97, dated 17.04.2017, under Section 22 of the NDPS Act, registered at Police Station City Jagraon. Furthermore, the car recovered in the instant case has been purchased by the petitioner from Narinder Kumar and no objection issued by RTA, Gurgaon for transfer of the car in the name of the petitioner along with the affidavit of the petitioner has also been recovered from the car. 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 name of the petitioner has been specifically and categorically mentioned in the FIR registered on the basis of the secret information. He allegedly slipped away from the spot on seeing the police party. From the possession of the co-accused, 255 grams of heroin has been recovered. The petitioner is stated to be a convict in another case under NDPS Act and also facing trial in one more case under NDPS Act. Besides, the petitioner is the owner of the vehicle in which the contraband was being carried having purchased the same from the registered

owner thereof. The name of the petitioner has also emerged in the confessional statement of the co-accused Jagtar Singh, who is the father of the petitioner.

The quantity of contraband recovered in the instant case falls under the category of commercial quantity. The drug menace has attained alarming height and such like offence cannot be viewed lightly. The matter requires thorough probe and investigation and the custodial interrogation of the petitioner appears to be essential for the proper investigation of the case. As such, no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

Instant petition is dismissed, accordingly.

February 22, 2023

vk

(Vivek Puri)

Judge

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