

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(102)

CRM-M-2529-2023

Date of Decision: 18.01.2023

Dinesh Kumar Jain @ Toti

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Dheeraj Narula, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 438 Cr.P.C praying for grant of anticipatory bail to the petitioner in case FIR No.1152 dated 12.12.2022 registered under sections 21 and 29 of NDPS Act No.61 of 1985 at Police Station, Civil Line, Sirsa.

Learned counsel for the petitioner has contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner is named in the FIR nor there is any recovery made from him. He submits that the alleged quantity recovered from the co-accused is also a non-commercial quantity i.e. 35.45 gm heroin. He submits that petitioner has no criminal antecedents as he has never been involved in any other case of the similar nature. Counsel submits that petitioner had approached the court of learned Addl. Sessions Judge, Sirsa for grant of bail, however, the same was dismissed vide order dated 28.12.2022. He submits that in the overall facts and circumstances of the case petitioner deserves to be granted the benefit of bail.

I have heard learned counsel for the petitioner and have gone through the record carefully.

As per case of the prosecution, there were three boys riding on the motorcycle, who were intercepted by the police, however, only two boys namely Ramandeep Singh and Manpreet Singh could be arrested on the spot and the third one succeeded in fleeing away. On their interrogation they disclosed the name of third person to be Dinesh Kumar Jain @ Toti i.e. the present petitioner. Learned Addl. Sessions Judge, Sirsa while dealing with the anticipatory bail of the petitioner has observed that petitioner is involved in two more cases of the similar nature which would show that the petitioner does not have clean antecedents.

Hon'ble Supreme Court in *“The State of Haryana VS. Samarth Kumar, 2022 Live Law (SC) 622”* has held that in the cases like the present one, the accused may take advantage at the time of arguing regular bail application or at the time of final hearing after conclusion of trial. In view of the overall facts and circumstances of the case, this Court finds no infirmity in the view taken by the learned Court below. Resultantly, the present petition, being devoid of any merits, is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

18.01.2023

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No