

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

CRM-M-5188-2023

Date of Decision: 02.02.2023

Gurjit Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Naresh Kumar, Advocate, for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J.

Prayer in the present petition is for the grant of anticipatory bail to the petitioner in a case FIR No.252 dated 29.12.2022, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of the NDPS Act added) at Police Station Mahilpur, District Hoshiarpur.

As per facts of the case, the FIR in question was lodged by SI Baljinder Singh, wherein, it was alleged that when he alongwith his team was patrolling, they saw one person, who was walking on foot and after seeing the Police party, he started running towards the fields. On suspicion he was apprehended and on asking he disclosed his name as Yadwinder Singh alias Bindu. He was given an offer under Section 50 of the NDPS Act for searching. On his search, a plastic envelope containing intoxicant tablets was recovered. The accused was found to have committed offence under Sections 22, 61, 85 of the NDPS Act and thus, the present FIR was lodged. On registration of the FIR, the investigation commenced. During the investigation, co-accused Yadwinder Singh @ Bindu disclosed about the complicity of the petitioner, thus, he was arrested as an accused in the FIR.

Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Hoshiarpur for grant of anticipatory bail, who after hearing both the sides, declined the same vide order dated 20.01.2023. Aggrieved by the same, the petitioner has approached this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that the petitioner is not named in the FIR, however, he has been implicated in this case on the basis of the disclosure statement of the co-accused Yadwinder Singh @ Bindu. He submits that recovery of 415 intoxicant tablets was effected from Yadwinder Singh @ Bindu and thus, disclosure statement is hit by Section 27 of the Indian Evidence Act and the same cannot be relied upon. He submits that the petitioner has no criminal antecedents and there being no evidence against the petitioner, he deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner.

Heard.

As per the case of the prosecution, 415 intoxicant tablets were recovered from the co-accused. During the investigation, co-accused Yadwinder Singh @ Bindu made a disclosure statement that recovered contraband belongs to the petitioner. The provisions of NDPS Act are stringent in nature.

Hon'ble the Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that

custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

Hon'ble Supreme Court in **The State of Haryana vs. Samarth Kumar, 2022 Livelaw (SC) 622** has held that in the cases like the present one, the accused may take advantage of facts like no recovery was effected from him and that he was implicated on the basis of disclosure statement made by the main accused, at the time of arguing regular bail application or at the time of final hearing after conclusion of trial.

The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner do not qualify for exercising the extraordinary power by this Court in their favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

02.02.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No