

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

104

CRM-M-6355-2023 (O&M)
Date of decision: 14.02.2023

HARINDER SINGH

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ramneek Vasudeva, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG Haryana.

AMAN CHAUDHARY. J.

Present petitions have been filed under Section 438 CrPC seeking anticipatory bail to the petitioner in case FIR No.37 dated 18.01.2022, registered under Section 18/61/85 of the NDPS Act (Section 27-A, 29 of NDPS Act added subsequently), registered at Police Station Thanesar Sadar, District Kurukshetra.

As per prosecution version, on 18.01.2022, co-accused Amarjeet Singh was arrested along with 4.500 kg Opium, which he kept in his possession without any licence or permit. During investigation, co-accused suffered a disclosure statement in which he disclosed that out of which 500 grams of said contraband was to be supplied by him to the petitioner, for which he had paid Rs.25,000/- in cash.

Learned counsel would contend that the petitioner was not named in the FIR and he was nominated on basis of the disclosure statement of co-accused Amarjeet Singh, who was arrested at the spot, alongwith the alleged contraband. He has vehemently contended that the petitioner has been falsely implicated in the case. He submits that the disclosure statement of the co-accused is not admissible and thus, there is no evidence against the petitioner regarding his complicity in the present case. He places reliance on the judgment in the case of **Tofan Singh vs.**

State of Tamil Nadu, 2020 AIR (Supreme Court) 5592 to contend that the disclosure statement is inadmissible in evidence. The petitioner is ready and willing to join the investigation and cooperate with the investigating agency. Thus, he prays for grant of anticipatory bail to him.

Learned State counsel opposes the prayer on the ground that the co-accused, who had named the petitioner, had stated that out of the contraband recovered from him, 500 gram opium was to be supplied to the petitioner, for which he had made a payment of Rs.25,000/-. He further submits that the custodial interrogation of the petitioner is required in the instant case to find the source of origin and the entire chain of supply of contraband.

Heard.

It is apposite to make a reference to the order of Hon'ble The Supreme Court of India in the case of **Prabhulal vs. Central Bureau of Narcotics**, wherein the SLP (Crl.) 6722-2022 was dismissed vide order dated 14.12.2022, affirming the order of dismissal of anticipatory bail by Madhya Pradesh High Court, by observing thus:-

“We have heard learned counsel for the parties. We find no reason to grant pre-arrest bail to the petitioner as prayed for. The Special Leave Petition is, accordingly, dismissed.

The interim protection granted by order dated 11.10.2022 stands vacated in view of the dismissal of the special leave petition.

However, if the petitioner surrenders and apply for regular bail, the same may be considered by the Trial Court as expeditiously as possible on its own merits in accordance with law.”

Furthermore in the case of **State of Haryana vs. Samarth Kumar**, 2022 LiveLaw (SC) 622, Hon'ble The Supreme Court of India has held thus:-

“7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.

8. In cases of this nature, the respondents may be able to take advantage of the decision in *Tofan Singh vs. State of Tamil Nadu* (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into error in granting anticipatory bail to the respondents.

10. In view of the above, the appeals are allowed. The impugned orders are set aside. As a consequence, the Appellate –State is entitled to take steps, in accordance with law.”

In the case in hand, the name of the petitioner has surfaced based on the disclosure statement of co-accused, Amarjeet Singh, who was apprehended at the spot and recovery of the 4.500 kg of opium was effected from him. He had categorically disclosed that the said contraband recovered from him for 500 grams was to be supplied to the petitioner, for which Rs.25,000/- had been paid to him by the petitioner. The sole ground taken by the petitioners for grant of anticipatory bail in view of the judgment in the case of **Tofan Singh** (supra) that the disclosure statement of co-accused is inadmissible, has no force, as per the decisions of Hon'ble The Supreme Court of India in the cases of **Prabhulal** and **Samarth Kumar** (supra). Thus, the custodial interrogation of the petitioners is necessary so as to complete the chain of supply and also to ascertain the person who are involved in the trade of drugs. In the case, the petitioners are granted the concession of anticipatory bail then prejudice would be caused to the case of the

prosecution.

The stringent provisions as contained in the statute, are to deal with the drug menace, plaguing the society, as the youth are being led on a path having deleterious effects, thereby destroying the very social fabric.

Keeping in view the aforesaid, this Court is not inclined to grant the concession of anticipatory bail to the petitioners. As a sequel thereto, the present petitions being bereft of merit, are hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

February 14, 2023

M.Kamra

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