

IN THE HIGH COURT OF PUNJAB AND HARYANA AT 103  
CHANDIGARH

CRM-M- 8184-2023  
Date of Decision: 16.2.2023

Sukhmnader Singh @ Sukhmander Singh ...Petitioner

Versus

State of Punjab ...Respondents

**CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr.Tanvir Joshi, Advocate for petitioner

Mr.J.P.Ratra, Sr.DAG, Punjab

**ASHOK KUMAR VERMA, J.**

Through this petition under Section 438 Cr.P.C., prayer has been made for grant of anticipatory bail to the petitioner in case FIR No.4 dated 3.1.2023 under Sections 21, 21-B and Sec. 29 (added subsequently) of the NDPS Act registered at Police Station Dayalpura, District Bathinda.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner is sought to be implicated on the basis of disclosure statement made by co-accused- Nachhattar Singh, Sandeep Kaur @ Sonu and Harminder Singh @ Happy from whom recovery has been made and they have already been granted regular bail vide order(s) dated 3.2.2023 and 4.2.2023 passed by the Special Court, Bathinda. No recovery has been effected from the petitioner. Except disclosure statement of his co-accused,

there is no legal evidence against the petitioner. Learned counsel further contends that confessional statement recorded under Section 67 of the NDPS Act is inadmissible, in view of the law laid down by the Hon'ble Supreme Court in *Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1*. Learned counsel also submits that 100 grams of heroin is alleged to have been recovered from the aforesaid co-accused which falls within non-commercial quantity. The petitioner is already ready and willing to join the investigation.

Notice of motion.

On the asking of this Court, J.P.Ratra, Sr.DAG, Punjab accepts notice on behalf of the respondent-State.

Learned counsel for the State vehemently opposes the grant of anticipatory bail to the petitioner on the ground that his name has been disclosed by the main accused.

I have heard learned counsel for the parties and gone through the paper-book.

Apparently, the petitioner is sought to be implicated on the basis of disclosure statement made by co-accused. No recovery has been effected from the petitioner. Except disclosure statement of his co-accused, there is no other evidence against the petitioner. The heroin alleged to have been recovered from co-accused falls within non-commercial quantity.

Considering overall facts and circumstances of the present case, this petition is disposed of with a direction to the petitioner to join investigation within 10 days from today and remain present for investigation, as and when called for. In the event of arrest, the petitioner shall be released on bail on furnishing personal and surety bonds to the satisfaction of the

Arresting/Investigating Officer. The petitioner shall abide by the conditions as specified under Section 438 (2) Cr.P.C. In case the petitioner fails to adhere to the terms and conditions as envisaged in this order, the State would always be at liberty to revive this petition by filing an application in this regard.

(ASHOK KUMAR VERMA)

JUDGE

16.2.2023

MFK

*Whether speaking/reasoned*

*Yes/No*

*Whether Reportable*

*Yes/No*