

2023:PHHC:037828

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9300-2023

Date of decision : 23.02.2023

Manjeet Singh

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. V.B. Godara, Advocate
for the petitioner.

Mr. Ayuwan Singh, AAG, Haryana.

PANKAJ JAIN, J.

Petitioner prays for grant of pre-arrest bail in FIR No.248 dated 09.05.2022, registered for the offences punishable under Sections 21B and 29 of NDPS Act at Police Station Tosham, District Bhiwani.

2. The petitioner earlier approached this Court by way of CWP No.57942 of 2022 which was decided vide detailed order dated 20.12.2022.

The operative part thereof reads as under:-

“XX XX XX

The question thus arises is as to whether concession of dictum of law laid down in the case of ***Tofan Singh's case (supra)*** can be considered at the time of consideration of pre-arrest bail claimed by the petitioner. The Apex Court in the case of ***Samarth Kumar's case (supra)*** held as under :-

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was

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placed by the High Court in the majority judgment of this Court in **Tofan Singh v. State of Tamil Nadu** reported in (2021) 4 SCC 1.

“xxx xxx xxx

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 an error in granting anticipatory bail to the respondents.”

Thereafter another matter involving nomination of an accused on the disclosure of co-accused came before the Apex Court in the case of **Prabhulal Vs. Central Bureau of Narcotics** in Special Leave to Appeal (Criminal) No.6744/2022. Apex Court vide order dated 11.10.2022 granted interim protection to the petitioner therein. However, admittedly the same finally resulted in dismissal of the pre-arrest bail vide order dated 14.12.2022.

In view of the aforesaid facts and the ratio of law laid down by the Apex Court in the case of **Samarth Kumar's case (supra)**, it can be safely concluded that the benefit of ratio of law laid down in the case of **Tofan Singh's case (supra)** cannot be granted to an accused while considering pre-arrest bail.

In view of the aforesaid settled law, no ground to grant pre-arrest bail to the petitioner is made out. Consequently, the same is ordered to be dismissed.

Needless to say nothing recorded hereinabove should be construed as expression on merits of the case.”

3. Counsel for the petitioner has not been able to make out a case to take a different view. He still relies upon ratio of law laid down in **Tofan**

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Singh vs. State of Tamil Nadu (2021) 4 SCC 1 which stands explained in *State of Haryana vs. Samarth Kumar (2022) 3 RCR Cri.991*.

4. In view of the aforesaid fact, no ground is made out to take a different view. Resultantly, the present petition is seeking pre-arrest bail is dismissed.

(PANKAJ JAIN)
JUDGE

23.02.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No