

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-10393-2023

Date of decision : 16.03.2023

Omkar Singh @ Oma

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Lakshay Bector, Advocate for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present (second) petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.68 dated 05.08.2022 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Hathur, District Ludhiana.

Learned counsel for the petitioner contends that the petitioner was not apprehended on the spot and nothing was recovered from him. Earlier petition filed by the petitioner was dismissed by this Court on the completely wrong facts that the petitioner has been nominated on the disclosure statement made by co-accused Gurpreet Singh @ Gopi from whom 4230 intoxicant tablets were recovered whereas the petitioner has been nominated on the disclosure statement made by co-accused Labh Singh who has already been discharged by the trial Court on the ground that the contraband recovered from him does not fall under the NDPS Act. Nothing is to be recovered from the

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petitioner and his custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

In compliance with order dated 28.02.2023, Mr.Harinderpal Singh Parmar, Superintendent of Police (D), Ludhiana (Rural) is present in the Court and submits that disciplinary action has been taken against the erring police officer who earlier gave the wrong information. Reply dated 15.03.2023 by way of an affidavit has also been filed by him in the Court today which is taken on record.

Learned State counsel has vehemently opposed the present petition and submits that the police apprehended accused Gurpreet Singh @ Gopi and on search, 4230 tablets of Tramadol Hydrochloride were recovered from him. In his disclosure statement accused-Gurpreet Singh @ Gopi disclosed that he had purchased the alleged contraband from accused-Labh Singh @ Labha. On 06.08.2022 the police arrested accused-Labh Singh @ Labha and on search 960 intoxicant tablets and drug money or Rs.19,500/- was recovered from the dashboard of his car. In his disclosure statement accused-Labh Singh @ Labha disclosed the name of the petitioner as supplier of the alleged contraband. The petitioner is the member of the nexus who supplied narcotic contraband in the State as he is also involved in 05 other cases under the NDPS Act.

I have heard learned counsel for the petitioner as well as learned State counsel and perused the record.

It is not disputed that the petitioner filed first petition bearing CRM-M-47483-2022 for grant of anticipatory bail which was dismissed by this Court by passing a detailed order dated 22.11.2022.

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The only change in the facts and circumstances of the case is that the name of the petitioner is disclosed by co-accused Labh Singh @ Labha instead of co-accused Gurpreet Singh @ Gopi. Moreover, the antecedents of the petitioner are also not good as he is also involved in 05 other cases under the NDPS Act. It has been observed by the Hon'ble Supreme Court in case ***Gudikanti Narasimhulu Vs. Public Prosecutor, High Court of A.P. : (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

In view of the above, this second bail application cannot be entertained by this Court and the same is hereby dismissed.

16.03.2023

*kothiyal***(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No