

CRM-M-11235-2023

Date of Decision: 03.08.2023

Zaid Khan

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The present petition has been filed under Section 438 of Cr.P.C., praying for grant of anticipatory bail to the petitioner in case FIR No.264 dated 10.11.2021, registered under Sections 21(C) and 29 of NDPS Act, at Police Station Garhi, District Jind.

2. On 19.04.2023, a Co-ordinate Bench of this Court had noticed the following facts:-

“Learned counsel for the petitioner submits that as per prosecution version one Pritam was apprehended by the police alongwith 400gm of Smack and after his arrest said Pritam made first disclosure statement wherein he named one Lala Dogar to be the person who supplied the said Smack to him and copy of the said disclosure statement is Annexure R-1. That, thereafter, on the same day petitioner retracted from the said disclosure statement and made second disclosure statement Annexure R-2 wherein Pritam disclosed to the police that some days back he was lodged

in Ujjain Jail in case under NDPS Act where he met the present petitioner and they came into close contact and that after his release from Ujjain Jail, Pritam procured aforesaid contraband from Ajim Khan who was deputed for that purpose by the present petitioner.

The counsel for the petitioner further submits that as per the information received under RTI Act, the present petition was never lodged in Ujjain Jail, thus, falsifying the contents of alleged disclosure statement Annexure R-2 made by Pritam. The counsel for the petitioner further submits that aforestated Ajim Khan has already given concession of regular bail by this Court vide order dated 28.04.2022 Annexure P-2.”

3. I have heard learned counsel for the parties and perused the record with their able assistance.

4. It is not in dispute that the petitioner was not arrested at the spot and after his arrest, Pritam, co-accused had suffered a disclosure statement dated 11.11.2021, whereby he had named Lala Dogar as the person, who had supplied the Smack to him. However, later on he retracted from the said disclosure statement and named the present petitioner. Except the disclosure statement made by co-accused Pritam, there is no other evidence against the present petitioner and evidentiary value of the disclosure statement is yet to be decided by the trial Court during the course of trial.

5. Without commenting on the merits of the case, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C.

6. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

03.08.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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