

CRM-M-13031 of 2023

2023:PHHC:041386

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-13031 of 2023

Date of decision: -16.03.2023

Surjan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Sandeep Godara, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.162 dated 11.07.2021 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of the NDPS Act added subsequently), registered at Police Station Tanda, District Hoshiarpur.

Brief facts of the case are that a police party being on patrolling duty was present at 'Rara Maur' for checking suspected persons. During checking, one car bearing registration No.PB-07-AU-0240 make FIGO came from 'Rara' side and upon giving signal by ASI, its driver stopped the car and tried to escape away from the spot but on the basis of suspicion he was apprehended by Investigating Officer with the help of other members of police party. On inquiry, he

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disclosed his name as Gurpreet Singh @ Gopi son of Hardeep Singh, resident of village Chhangla, Police Station Dasuya, District Hoshiarpur. After completing legal formalities, search was conducted and from the search of his above said car 10 gms. heroin was recovered. During investigation he made disclosure statement that petitioner-Surajn Singh used to give heroin to him.

Learned counsel for the petitioner submits that the petitioner is not apprehended on the spot and nothing has been recovered from him. The petitioner has been falsely implicated in the case only on the basis of disclosure statement made by co-accused Gurpreet Singh @ Gopi, which is a very weak type of evidence. There is no direct or indirect evidence against the petitioner to connect him with the commission of alleged crime. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. He further submits that petitioner is ready and willing to join the investigation.

Learned State counsel, who appears on receipt of advance copy of the petition, has opposed the present petition on the grounds that the allegations against the petitioner are serious in nature. In his disclosure statement co-accused specifically named the petitioner from whom he had purchased the alleged contraband. He further submits that petitioner is involved in two more cases i.e. FIR No.89 dated 06.11.2012 under Sections 307, 323, 333, 324 and 34 IPC, registered at Police Station Qadian, Gurdaspur and FIR No.109 dated 20.07.2018 under Sections 21 and 22 of the NDPS Act and Section 42

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of the Prisons Act, 1894, registered at Police Station Islamabad, Police Commissionerate Amritsar. For thorough investigation of the case, custodial interrogation of the petitioner is required.

I have heard learned counsel for the parties and perused the record.

Perusal of the record shows that 10 grams of heroin was recovered from co-accused Gurpreet Singh @ Gopi, which was allegedly supplied to the co-accused by the petitioner.

In *State of Haryana Vs. Samarth Kumar, 2022(3) R.C.R.(Criminal) 991*, the Hon'ble Supreme Court held that the accused is not entitled for anticipatory bail only on the ground that no recovery was effected from the accused and he has been implicated on the basis of disclosure statement. In the said case, Hon'ble Supreme Court observed as under:-

*“In cases of this nature, the respondent 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 the conclusion of the trial. To grant anticipatory bail in 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 respondent.”*

The Hon'ble Apex Court in case *State of Punjab Vs. Baldev Singh, 1999 AIR SC 2378* has observed regarding Drug Addiction, Drug abuse and its effect on the society. The Hon'ble Apex Court in Para No.3 has observed as under:

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"3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention."

The aforesaid ratio of law has also been reiterated by the Karnataka High Court recently in ***Sri Thaha Ummer Vs. Union of India, (Criminal Petition No.9450/2022 decided on 9.11.2022).***

Moreover, the antecedents of the petitioner are also not good as he is already involved in 02 other cases, out of which one is of similar nature and other is under Section 307 IPC. It has been observed by the Hon'ble Supreme Court in ***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

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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 Court is of the considered view that for proper investigation; to find any nexus between the petitioner and his co-accused and for knowing the source of contraband, the custodial interrogation of the petitioner is necessary.

Consequently, the present petition being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

16.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No