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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15272-2021 (O&M)

Date of decision : 10.02.2023

Rakesh @ Rakesh Kumar Singh

..... Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Abhinav Aggarwal, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

CRM-6652-2023

Application is allowed as prayed for.

Annexure P-16 is taken on record.

CRM-M-15272-2021

Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.0076 dated 14.04.2020, under Section 20 of NDPS Act (Sections 3/14 of Foreigners Act added later on qua another co-accused Noor Aslam @ Dada and the name of the petitioner in the present case added later on), at Police Station Udyog Vihar, District Gurugram.

Vide order dated 07.04.2021, while granting interim protection, the petitioner was directed to join investigation.

It has been contended by counsel for the petitioner that the petitioner is not named in the FIR and he was implicated in this case on the basis of disclosure statement of co-accused Rajan Kumar and

Abhishek Kumar. He has submitted that the alleged shop from which recovery of 107 kg *ganja* was recovered from the co-accused does not belong to the petitioner. He has further submitted that though the recovery effected from the co-accused is of commercial quantity, however, the judgment of Hon'ble Supreme Court in “*The State of Haryana VS. Samarth Kumar, 2022 LiveLaw(SC)622*” is distinguishable from the facts and circumstances of the present case. He has submitted that the Constitution Bench of the Hon'ble Supreme Court has time and again settled that the disclosure statement of co-accused is inadmissible evidence. He submits that the petitioner was granted interim bail by this Court on 07.04.2021 and thereafter, he has joined investigation three times and duly cooperated. He submits that the co-accused are already arrested and the only evidence against the petitioner is their disclosure statement.

Learned State counsel, on the other hand, has submitted that though as admitted that the petitioner has joined investigation, however, in the disclosure statement of co-accused, he has been stated to be the supplier of the contraband. He submits that as per their investigation so far, one other case is also against the petitioner in Bihar. However, after hearing counsel for both the parties, it is apparent that the petitioner was granted interim bail by this Court on 07.04.2021 and he has joined investigation three times.

Needless to say that the veracity of the allegations and counter-allegations are totally a subject matter of the investigation. However, this is not disputed that the petitioner was not named in the FIR

and has been found involved in this case on the basis of disclosure statement.

Resultantly, interim order dated 07.04.2021 is made absolute subject to compliance of conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands allowed.

(RAJESH BHARDWAJ)
JUDGE

10.02.2023
m.sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No