

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-13372-2023
Date of decision: 20.04.2023

YOGENDER KUMAR

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No. 45 dated 17.02.2023, under Sections 20 of the NDPS Act registered at Police Station Ctiy Mahindergarh, District Mahindergarh.

On 16.03.2023, this Court had passed the following order:-

“The present petition has been filed under Section 438 Cr. P.C. for grant of pre-arrest bail to the petitioner in case FIR No.45 dated 17.02.2023, registered under Section 20 of the NDPS Act at Police Station City Mahindergarh, District Mahindergarh.

Learned counsel contends that the petitioner is not named in the FIR and his name surfaced based on disclosure statement of co-accused Raj Kumar from the almirah of whose house non-commercial quantity of contraband was recovered, who was at that

time not apprehended though was after two days. The said co-accused has since been granted regular bail. Petitioner is not involved in any other case. He relies on the judgments passed by Hon'ble The Supreme Court of India in the cases of **Toofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Criminal) 1, and **Subodh Kumar Sagar @ Subodh Kumar Sah Vs. The State of Bihar**, CrI. Misc. No.29907 of 2022. Learned counsel submits that the petitioner is ready and willing to join investigation as and when required by the investigating agency.

Notice of motion.

At the asking of the Court, Mr. Tanuj Sharma, AAG Haryana accepts notice on behalf of respondent-State.

Meanwhile, the petitioner is directed to join the investigation on or before 24.03.2023. In the event of arrest of the petitioner, he shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance enshrined under Section 438(2) Cr.P.C.

However, it is clarified that if the petitioner does not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated.

Adjourned to 20.04.2023 ”

Learned counsel for the petitioner submits that in pursuance of the above order, the petitioner has not only joined investigation, but has also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.

Learned State counsel on instructions affirms the factum of joining the investigation by the petitioner and cooperating with the investigation agency. He also submits that at this stage, the petitioner is not required for further

custodial interrogation.

In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 16.03.2023 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr.P.C

However, it is made clear that if the petitioner fails to join and cooperate with the investigation agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

(AMAN CHAUDHARY)
JUDGE

20.04.2023
Mehak

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