

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-13778-2023

Date of decision : 20.03.2023

Parwinder Singh

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Ruhani Chadha, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.288 dated 22.12.2022 registered under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (to which Section 29 of the NDPS Act was added later on) at Police Station Dharmkot, District Moga.

Brief facts of the case are that on 22.12.2022, the police party headed by ASI Dawinderjit Singh, on suspicion, apprehended accused-Kulwinder Singh and Paramjit Kaur. Upon checking of polythene envelop thrown by accused-Kulwinder Singh, 05 grams of heroin was recovered from it and upon checking of polythene envelop thrown by accused-Paramjit Kaur, 60 loose intoxicant tablets and 20 tablets Mark Etezola was recovered from it. During interrogation, accused-Paramjit Kaur disclosed that she had procured the tablets recovered from her from the petitioner.

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 Paramjit Kaur which is a very weak type of evidence. Co-accused Kulwinder Singh has already been released on regular bail by the trial Court. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Jaspal Singh Guru, Asstt. A.G., Punjab, who is present in the Court, has accepted notice on behalf of the respondent-State and opposed the present petition on the grounds that in her disclosure statement co-accused Paramjit Kaur, who is mother of the petitioner, specifically named the petitioner from whom he had procured the alleged intoxicant tablets recovered from her. Why any mother would falsely implicate her own son. The petitioner is also involved in 01 other cases under the NDPS Act. For thorough investigation of the case, custodial interrogation of the petitioner is required.

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

Perusal of the record shows that 60 loose intoxicant tablets and 02 strips of intoxicant tablets Mark Etezola each strip containing 10 tablets (total 20 tablets) recovered from co-accused Paramjit Kaur

allegedly supplied by the petitioner to her. In ***State of Haryana Vs. Samarth Kumar : 2022 Live Law (SC) 622***, 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:

"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 Hon'ble Supreme 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 01 other case of similar nature. 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 Court is of the considered view that for thorough investigation 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.

20.03.2023*kothiyal***(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No