

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-14633 of 2023(O&M)
Date of Decision: 28.04.2023

Yogesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by:- Ms. Shweta Sanghi, Advocate
For the petitioner.

Ms. Harpreet Kaur, AAG Haryana.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 83 dated 12.02.2022, registered under Sections 22-C and 29 of Narcotic Drugs and Psychotropic Substances Act (for brevity, the Act) and Sections 18(c), 18-A of Drugs and Cosmetics Act at Police Station Civil Lines, Sirsa.

The brief facts of the case are that on 12.02.2022 co-accused Tanurag Manav was apprehended and recovery of commercial quantity of medical intoxicants was effected from him. Thereafter, said Tanurag Manav suffered disclosure statement to the effect that he used to supply the drugs (medical intoxicants) to different persons, including the present petitioner. Resultantly, the petitioner is named as accused in the present case.

The counsel for the petitioner submits that the FIR in this case was registered against Tanurag Manav and lateron petitioner has been falsely impleaded as accused in the present case on the basis of disclosure

statement of co-accused Tanurag Manav. The counsel for the petitioner further submits that the said disclosure statement of co-accused is not relevant and its admissibility and veracity will be tested during the trial. The counsel for the petitioner further submits that except for the alleged disclosure statement, there is no other evidence to connect the petitioner with the aforesaid recovery of medical intoxicants which is stated to be effected from co-accused Tanurag Manav. The counsel for the petitioner further submits that no doubt the petitioner is involved in one other case under the Act, but he is enlarged on bail in the said case. The counsel for the petitioner further submits that the petitioner is ready to join the investigation with the police. In support of his contentions, the counsel for the petitioner has placed reliance on judgment of the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1**. The counsel for the petitioner also placed reliance upon order dated 03.02.2023 passed by Hon'ble Supreme Court in SLP(Crl.) 1266 of 2023 (**Vijay Singh Vs. State of Haryana**), wherein interim protection is granted to the accused person with direction that no coercive steps are to be taken against him.

The present petition is contested by the State counsel who submits that commercial quantity of medical intoxicants were recovered from the possession of co-accused Tanurag Manav. The State counsel further submits that rigors of Section 37 of the Act are applicable to the present case. The State counsel further submits that the name of the petitioner surfaced in the disclosure statement made by Tanurag Manav. It is further submitted that the custodial interrogation of the petitioner is necessary for proper and effective investigation of the case. So, prayer is made that present petition be dismissed.

I have considered the submissions made by counsel for the parties.

As per the prosecution version medical intoxicants were recovered from the possession of co-accused Tanurag Manav and the said recovery falls in commercial quantity as per the provisions of the Act. So, the embargo provided under Section 37 of the Act is applicable to the present case. Further, the veracity and admissibility of the disclosure statement made by co-accused Tanurag Manav against the present petitioner cannot be considered at this initial stage in the light of law laid down by Hon'ble Supreme Court in **State of Haryana Vs. Samarth Kumar**, 2022(3) RCR(Crl.) 991. The petitioner cannot take any benefit of the order dated 03.02.2023 passed by Hon'ble Supreme Court in Vijay Singh's case (supra) as the said case is relating to recovery of non-commercial quantity of contraband, whereas in the instant case the contraband recovered comes under commercial quantity.

In light of the above, this Court is of the view that the petitioner is not entitled to get interim protection, as the same will amount to interference in the investigation.

Accordingly, the present petition is hereby dismissed. However, observations made hereinabove are not to be construed as opinion on the merits of the case.

28.04.2023
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(KARAMJIT SINGH)
JUDGE

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