

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

101

CRM-M-15914-2023 (O&M)

Date of decision: 08.05.2023

Ram Niwas

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vikas Bishnoi, Advocate for the petitioner

Mr. Jagdish Manchanda, Additional AG Haryana

AMAN CHAUDHARY. J.

1. The present petition under Section 438 of Cr.P.C. has been filed seeking anticipatory bail to the petitioner in case FIR No.75 dated 28.02.2023, registered under Section 15(b) of the NDPS Act at Police Station Agroha, District Hisar.

2. Briefly put, the FIR in the present case was registered against co-accused Sahdev who was found in possession of 18 kg of poppy husk and 3.5 kg poppy straw on 28.02.2023. After his arrest, he suffered a disclosure statement implicating the present petitioner as the supplier of the contraband.

3. Learned counsel would contend that the petitioner was not named in the FIR and he was nominated on basis of the disclosure statement of co-accused Sahdev, who was arrested at the spot, along with the alleged contraband. He places reliance on the judgment in the case of **Tofan Singh vs. State of Tamil Nadu**, 2020 AIR (Supreme Court) 5592 to contend that the disclosure statement is inadmissible in evidence. He is ready and willing to join the investigation and cooperate with the investigating agency. Thus, he prays for grant of anticipatory

bail to him.

4. Learned State counsel places reliance on the status report filed by way of affidavit of Rohtash Singh, HPS, Deputy Superintendent of Police, Barwala and opposes the prayer on the ground that the petitioner is a drug peddlers and is involved in 4 other FIRs registered under the NDPS Act, wherein recovery has been effected from his conscious possession. Custodial interrogation of the petitioner is required in the instant case to find the source of origin and entire chain of supply of contraband as also to ascertain the persons who are involved in the drug trade.

5. Heard.

6. It is apposite to make a reference to the order of Hon'ble The Supreme Court of India in the case of **Prabhulal vs. Central Bureau of Narcotics**, wherein the SLP (Crl.) 6722-2022 was dismissed vide order dated 14.12.2022, affirming the order of dismissal of anticipatory bail by Madhya Pradesh High Court, by observing thus:-

“We have heard learned counsel for the parties. We find no reason to grant pre-arrest bail to the petitioner as prayed for. The Special Leave Petition is, accordingly, dismissed.

The interim protection granted by order dated 11.10.2022 stands vacated in view of the dismissal of the special leave petition.

However, if the petitioner surrenders and apply for regular bail, the same may be considered by the Trial Court as expeditiously as possible on its own merits in accordance with law.”

7. Furthermore in the case of **State of Haryana vs. Samarth Kumar**, 2022 LiveLaw (SC) 622, Hon'ble The Supreme Court of India has held thus:-

“7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals

have become infructuous.

8. In cases of this nature, the respondents 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 conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into error in granting anticipatory bail to the respondents.

10. In view of the above, the appeals are allowed. The impugned orders are set aside. As a consequence, the Appellate –State is entitled to take steps, in accordance with law.”

8. In the case in hand, the name of the petitioner has surfaced based on the disclosure statement of co-accused Sahdev, who was apprehended at the spot and recovery of 18 kg of poppy husk and 3.5 kg poppy straw was effected from him. He had categorically stated that the petitioner was the supplier of the said contraband recovered from him. Moreover, the petitioner is involved in 4 other FIRs under the NDPS Act, wherein recovery has been effected from his conscious possession, which indicates that he is indulging in the trade of drugs. The sole ground taken by the petitioner for grant of anticipatory bail in view of the judgment in the case of **Tofan Singh** (supra) that the disclosure statement of co-accused is inadmissible, has no force, as per the law laid down by Hon'ble The Supreme Court of India in the cases of **Prabhulal** and **Samarth Kumar** (supra). Thus, the allegations against the petitioner call for a deeper probe to unearth the modus operandi, source of origin, chain of supply and also to find out the involvement of other persons therein, so as to also eradicate the menace of drug proliferating, for which the custodial interrogation of the petitioner is required. The grant of pre-arrest bail in the present case shall be detrimental to the investigation.

9. The stringent provisions as contained in the statute, are to deal with

the drug menace plaguing the society, as the youth are being led on a path having deleterious effects, thereby destroying the very social fabric.

10. Keeping in view the aforesaid, this Court is not inclined to grant the concession of anticipatory bail to the petitioner. As a sequel thereto, the present petition being bereft of merit, is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

08.05.2023

S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No