

**(210) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-16821-2022
Date of Decision: 07.02.2023**

SUKHJINDER SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Baltej Singh Sidhu, Sr. Advocate assisted by
Mr. Chandan Singh, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail in case bearing FIR No.45 dated 08.04.2022 registered under Sections 21(b)/61/85 NDPS Act at Police Station Kabarwala, District Sri Muktsar Sahib.

2. The brief facts of the case are that while the police party was patrolling duty, they saw an Innova vehicle white colour coming from the front side. Two persons, a driver and another person were sitting on the conductor seat. On seeing the police party, they stopped the vehicle and fled away. A woman was apprehended alighting from the Innova car and she followed the persons who had run away earlier. On being apprehended, she disclosed her name as Amandeep Kaur and stated that the name of the driver of the vehicle was Sukhjinder Singh (petitioner) and the persons sitting on

his side was her husband Surinder Singh alias Shabi. The search of the vehicle revealed 44 gms of heroin in a polythene carry bag.

3. The petitioner sought the concession of anticipatory bail and on 05.05.2022, the following order was passed:-

“The Counsel for the State submits that the vehicle from which 44gms of heroin was recovered belongs to the petitioner. However, he admits that no other case has been registered against the petitioner and as such his antecedents are clear. Counsel for the petitioner on the other hand places reliance on Dildar Singh Singh Vs. State of Punjab CRM-M13376-2020 Decided on 01.06.2020 and Harpreet Singh Vs. State of Punjab CRM-M-10037-2020 Decided on 16.07.2020 to contend that once the petitioner was named on the disclosure statement of his co-accused he deserved the concession of bail.

Adjourned to 18.07.2022 .

In the meanwhile, in the event of his arrest, the petitioner shall be released on interim bail subject to the satisfaction of the arresting/investigating officer. However, he shall join the investigation as and when called upon to do so and abide by the conditions as envisaged under Section 438(2) Cr.PC as under:-

i) that the petitioner(s) shall make himself/herself available for interrogation before the Investigating Officer as and when required;

ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the court or to any police officer;

iii) that the petitioner(s) shall no leave the country, without prior permission of this Court and shall surrender his passport, if any.

The learned State Counsel is directed to file a reply in this matter on or before the next date of hearing.”

4. A status report dated 03.11.2022 by way of an affidavit of Balkar Singh, PPS, Deputy Superintendent of Police, Sub-Division Malout, District Sri Muktsar Sahib has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. The said reply refers to the investigation conducted so far. The petitioner was stated not to be cooperating in the investigation, though the investigation stands concluded and a challan in the said FIR was submitted on 13.09.2022. As per the reply, the nature of allegations did not entitle the petitioner to the grant of anticipatory bail.

5. The learned counsel for the petitioner while referring to the interim order dated 05.05.2022 contends that once the petitioner has joined investigation pursuant to having been named in the disclosure statement and the report under Section 173(2) Cr.P.C. stands filed, the interim order granting anticipatory bail to the petitioner be made absolute as custodial interrogation was not required.

6. The learned State counsel while referring to the reply dated 03.11.2022 contends that in terms of the judgment in **State of Haryana Versus Samarth Kumar, 2022(3) R.C.R. (Criminal) 991**, even though the petitioner was named in a disclosure statement the said fact would not entitle the petitioner to the grant of anticipatory bail. He further contends that the

petitioner after being granted the concession of interim anticipatory bail vide order dated 05.05.2022 has been involved in another case bearing FIR No.54 dated 18.07.2022 at Police Station Amir Khas, wherein 60 gms of heroin were recovered. He thus, contends that the conduct of the petitioner also does not entitle him to the grant of anticipatory bail.

7. I have heard the learned counsel for the parties.

8. The Hon'ble Supreme Court in the case of **State of Haryana Versus Samarth Kumar** (supra), held as under:-

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in Tofan Singh v. State of Tamil Nadu reported in (2021) 4 SCC 1.

5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that

therefore, nothing survives in the appeal. But, we do not agree.

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 v. 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 an 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 Appellant-State is entitled to take steps, in accordance with law.

[emphasis supplied]

9. This Court in the case of **Gurpreet Singh Versus State of Punjab, CRM-M-44196-2022, decided on 23.09.2022** had dismissed the anticipatory bail petition of an accused who had been named in a disclosure statement of the arrested accused. An SLP No.9680/2022 was preferred against the said order and the said SLP was dismissed by the Hon'ble Supreme Court vide order dated 07.11.2022. The said order is reproduced hereinbelow:-

“We are not inclined to interfere with the impugned judgment.

The special leave petition is dismissed.

Pending applications stand disposed of.”

Similarly, in the case of **Pargat Singh Versus State of Punjab, CRM-M-32630-2022, decided on 06.09.2022**, this Court had declined anticipatory bail to the accused therein who had been named in a disclosure statement of the arrested co-accused vide order dated 06.09.2022. An SLP No.11835/2022 was preferred against the said order and the said SLP was dismissed by the Hon'ble Supreme Court vide order dated 16.12.2022. The said order is reproduced hereinbelow:-

“Learned counsel for the petitioner seeks liberty to withdraw the special leave petition. Permission as sought for is granted.

Special Leave Petition stands dismissed as withdrawn.

Pending application(s), if any, stand disposed of.”

10. In the present case, firstly, the petitioner is not entitled to the grant of anticipatory bail. However, even after the petitioner was granted the concession of interim anticipatory bail, he has been involved in another case of a similar nature bearing FIR No.54 dated 18.07.2022 at Police Station Amir Khas, wherein 60 gms of heroin were recovered.

11. In view of the aforementioned discussion, I find no merit in the present petition and the same is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

07.02.2023

JITESH

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