

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

(206)

CRM-M-16450-2023

Date of Decision : July 17, 2023

Gurtej Singh**.. Petitioner****Versus****State of Punjab****.. Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rajinder Partap Singh Jammu, Advocate, for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed by the petitioner seeking anticipatory bail in FIR No. 71 dated 19.10.2022 registered under Sections 21, 22 and 29 of the NDPS Act, 1985 at Police Station Sehna, District Barnala.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by the Coordinate Bench of this Court dated 31.03.2023. Order dated 31.03.2023 is as under:-

“Learned counsel for the petitioner contends that the recovery of alleged contraband i.e. 212 loose intoxicant tablets, which is noncommercial in nature, has been affected from Kala @ Jeera who is the main-accused and nothing has been recovered from the possession of the petitioner.

Further arguments raised by learned counsel for the petitioner is that he was implicated in the instant case merely on the basis of disclosure statement wherein the main accused

Kala named him and another co-accused Tara Singh @ Kali alleging that said contraband is purchased from the petitioner and Tara Singh.

Notice of motion.

On the asking of Court, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of respondent-State.

Learned State counsel on instructions from ASI Baljit Singh states that the petitioner is also involved in another FIR bearing No.15 dated 25.02.2021 wherein he is facing the trial after framing of charges.

Considering the submissions made by the respective counsel hereinabove, this Court is obvious of the fact that the instant FIR dated 19.10.2022 i.e. during the pendency of trial in the other FIR wherein the petitioner is facing trial and is on bail . The circumstances as has been unfolded in the instant FIR cannot be ruled out false implication of the petitioner. Though it is matter of trial to be adjudicated, which is likely to take time and no fruitful purpose would be served by sending the petitioner behind bars, as it is a case of non-commercial quantity which has already been recovered from the main-accused Kala.

Further investigation is to be carried out by the prosecution that will move and rather facilitate on joining of the investigation by the petitioner. Considering the aforesaid fact that the quantity of contraband is non-commercial in nature in both the cases in which the petitioner is involved, though pendency of another FIR will also not to be a predicament for this Court in the instant FIR while examining the case for anticipatory bail, which also amount to violation of Article 21 of the Constitution of India inasmuch as he is facing the trial for more than two years in the earlier FIR as well but same is still at the initial stage.

The Court is of the affirmed view that looking into the totality of the circumstances and the version, the petitioner deserves the concession of interim bail and hence, the

petitioner is directed to join the investigation. In the event of arrest of the petitioner, he shall be released on interim bail on his furnishing personal and surety bonds to the satisfaction of Investigating Officer/Arresting Officer.

Adjourned to 17.07.2023.”

Learned State counsel, on instructions from ASI Jaswinder Kumar, states that in terms of the order dated 31.03.2023 of the Coordinate Bench of this Court reproduced hereinbefore, the petitioner has joined the investigation and no further interrogation of the petitioner is required at this stage.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

In view of the above, the order dated 31.03.2023 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join and cooperate in the investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

July 17, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No