

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

104

CRM-M-18033-2023 (O&M)

Date of decision: 17.04.2023

HARINDER PAL SINGH @ PHINDU

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vivek Salathia, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG Punjab.

AMAN CHAUDHARY. J.

1. Present petition has been filed under Section 438 CrPC seeking grant of anticipatory bail to the petitioner in case of FIR No.84 dated 21.09.2022, registered under Section 22 of the NDPS Act (Act 61 and 85) (Offence under Section 29 of NDPS Act added later on), registered at Police Station Tarsika, District Amritsar rural.
2. As per the prosecution version, on 21.09.2022, co-accused Joban Singh and Gangandeep Singh were arrested along with 450 and 90 intoxicant tablets, which they kept in their possession without any licence or permit. During investigation, they suffered a disclosure statement that they had purchased the said tablets from the petitioner.
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 Joban Singh and Gangandeep Singh, who were arrested at the spot, alongwith the alleged contraband. He has vehemently contended that the petitioner has been

falsely implicated in the case. No recovery has been effected from him. He submits that the disclosure statement of the co-accused is not admissible and thus, there is no evidence against the petitioner regarding his complicity in the present case. 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. The petitioner 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 opposes the prayer on the ground that the co-accused, from whom the recovery of the contraband was effected had named the petitioner stating that they had purchased the same from him. Petitioner had filed an anticipatory bail before this Court, which was dismissed as withdrawn on 21.12.2022. Thereafter, he again approached the trial Court for grant of anticipatory bail, which was dismissed. There is no change of circumstances. Custodial interrogation of the petitioner is required in the instant case to find the source of origin, the entire chain of supply of contraband and the other drug peddlers involved, if any. There is every possibility of the petitioner fleeing from justice.

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 previous petition filed by the petitioner for grant of anticipatory bail was ordered to be dismissed as withdrawn by this Court on 21.12.2022. The present petition has been filed with the same facts that the name of the petitioner has surfaced based on the disclosure statement of co-accused Joban Singh and Gangandeep Singh, who were apprehended at the spot and recovery of the 540 intoxicant tablets has been effected from them. They had categorically disclosed that the said contraband recovered from them was purchased from the petitioner. The sole ground taken by the petitioner for grant of

anticipatory bail that the disclosure statement of co-accused is inadmissible, has no force, in view of the decisions of Hon'ble The Supreme Court of India in the cases of **Prabhulal** and **Samarth Kumar** (supra). The custodial interrogation of the petitioner is necessary so as to complete the chain of supply and also to ascertain the persons who may be involved in this nexus. In case, the petitioner is granted the concession of anticipatory bail then prejudice would be caused to the case of the prosecution.

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

April 17, 2023

M.Kamra

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