

2023:PHHC:071594
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-18474-2023 (O&M)
Date of decision: 16.05.2023

Nishan Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. S.S. Sandhu, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab.

AMAN CHAUDHARY. J.

1. On 17.04.2023, this Court had passed the following order:-

“The present petition has been filed under Section 438 Cr. P.C. for grant of pre-arrest bail to the petitioner in case FIR No.0023 dated 17.03.2023 registered under Sections 18(b), 21 (b), 27(a) and 61 of NDPS Act and later on added Section 29 of NDPS Act at Police Station Tibber, District Gurdaspur, Punjab.

Learned counsel contends that the petitioner is not named in the FIR, however, his name surfaced based on disclosure statement of co-accused Jitender Pal and Sandeep Kumar, from whom the non-commercial quantity of contraband was recovered along with drug money. He relies on the judgment passed by Hon'ble The Supreme Court of India in the case of **Toofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Crl.) 1. He is not involved in any other case. He further submits that the petitioner is ready and willing to join investigation as and when required by the investigating agency.

Notice of motion.

At the asking of the Court, Mr. Manipal Singh Atwal, DAG Punjab accepts notice on behalf of respondent-State and on instructions from ASI Mohan Singh affirms that the petitioner is not involved in any other case.

Meanwhile, the petitioner is directed to join the investigation on or before 21.04.2023. In the event of arrest of the petitioner, he shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance enshrined under Section 438(2) Cr.P.C.

However, it is clarified that if the petitioner does not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated.

Adjourned to 16.05.2023.”

2. Learned counsel submits that in pursuance of the afore-mentioned order, the petitioner has not only joined investigation but also fully cooperated with the investigating agency and he is not involved in any other case. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.

3. Learned State counsel on instructions from ASI Mohan Singh affirms the factum of joining the investigation by the petitioner and cooperating with the investigation agency as well as not being involved in any other case under the NDPS Act. He also submits that at this stage, the petitioner is not required for further custodial interrogation.

4. In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 17.04.2023 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C

5. However, it is made clear that if the petitioner fails to join and cooperate with the investigation agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

(AMAN CHAUDHARY)
JUDGE

May 16, 2023

M.Kamra

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No