

CRM-M-22744 of 2023

2023:PHHC:070612

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

CRM-M-22744 of 2023

Date of decision: 15.05.2023

Resham Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Ankit Chauhan, Advocate,
for Mr. J.K. Singla, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.19 dated 03.03.2023 under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Moonak, District Sangrur.

2. Brief facts of the case are that on 03.03.2023 ASI Gurmeet Singh alongwith other police officials on a Government vehicle bearing no. PB-13AW-4121 for the purpose of patrolling and checking were present in the area of Talab chowk Moonak at about 4:30 p.m., he received a secret information that Resham Singh (present petitioner) son of Ajmer Singh resident of Sandhu Kalan, P.S. Bhadaur District Barnala having mobile no.70090-94378 is dealing in business of selling intoxicant tablets. He had sent Sandeep Singh alias Seepa to Pawan

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Kumar Sharma for purchasing huge quantity of intoxicating tablets. It was further informed that today also Sandeep Singh after purchasing huge quantity of tablets will return from Hissar on bus via Moonak side while going to village Bhadaur and he will also stop for some time at Moonak. If proper nakabandi is laid, Sandeep Singh alias Seepa can be apprehended with large quantity of intoxicating tablets. As the information was from reliable source, *ruqa* was sent to the police station for registration of the case against Resham Singh, Sandeep Singh alias Seepa and Pawan Kumar Sharma under section 22C/29/61/85 NDPS Act. Further investigation was conducted by ASI Gulzar Singh. When the police party was going from Tohana Barrier towards Tohana road, one person was seen coming carrying a *pithu* bag on his shoulder. On seeing the police party, he had thrown the *pithu* bag and tried to retreat back. From the *pithu* bag, a transparent polythene envelope came out and some tablets scattered on the spot. Accused was apprehended by the police party and on interrogation he disclosed his name Sandeep Singh alias Seepa son of Amarjit Singh r/o near Baba Kala Mehar Da Gate Sandhu Kalan P.S. Bhadaur. From the polythene bag, 250 strips each strip containing 10 tablets total 2500 tablets of Tramadol Prolonged release Tablets and 260 strips each strip containing 60/60 tablets total 15,600 tablets of Alprazolam make Alprasafe 0.5 were recovered. Sandeep Singh disclosed that petitioner had sent him to purchase the intoxicating tablets from Pawan Kumar.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present

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case. He further submits that petitioner has been nominated as an accused on the basis of disclosure statement of co-accused, which is *per se* not admissible in evidence; he was not present on the spot and no recovery has been effected from him. He further submits that there is no linking evidence which could connect the petitioner with the alleged commission of offence. He also submits that petitioner is not involved in any other case and he is ready and willing to join the investigation.

4. On receipt of advance copy of the petition, learned State counsel while placing on record the status report has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that petitioner was actively involved in the present case as 32 calls were found to be made amongst the petitioner and his co-accused.

5. I have heard learned counsel for the parties and perused the record.

6. Relevant portion from the status report dated 15.05.2023 filed by the State reads as under: -

“The CDR of mobile phone number 70090-94378 of accused Resham Singh, mobile phone number 73407-87192 of accused Sandeep Singh @ Seepa and mobile number 86858-49848 of accused Pawan Kumar Sharma has been obtained and from the perusal of call details record, it revealed that on 03.03.2023 i.e. the date of registration of present FIR 32 calls are found to be made amongst all the three accused between each other i.e. one call and 23 messages were made by Resham Singh with Sandeep Singh @ Sipa to 08 calls were made by Resham Singh with Pawan Kumar Sharma. Accused Resham

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Singh (present petitioner) and Pawan Kumar Sharma could not be arrested so far. On receipt of FSL report and arrest/joining the investigation of these two accused, final report under Section 173 Cr.P.C. will be presented in the Court.”

7. In ***State of Haryana vs Samarth Kumar, 2022 Live Law (SC) 622***, the Hon’ble Supreme Court held that the accused is not entitled for anticipatory bail only on the ground that no recovery was effected from the accused and he has been implicated on the basis of disclosure statement.

8. In ***Samrath Kumar’s*** case (supra) the Hon’ble Supreme Court observed as under:-

“In cases of this nature, the respondent 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 the conclusion of the trial. To grant anticipatory bail in 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 respondent.”

9. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation

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*affecting the investigation being carried out adversely,
which is not called for.”*

10. The law laid down in above judgments is fully applicable to the facts of the case in hand.

11. The huge recovery of intoxicating tablets effected from co-accused falls within the ambit of commercial quantity. The petitioner is involved in the drug trafficking which is a great problem that harms youth and their families.

12. In view of the totality of facts as well as settled proposition of law, petitioner is not entitled to concession of anticipatory bail as his custodial interrogation is required.

13. Dismissed.

14. Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

15.05.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No