

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

207

CRM-M-23557-2023 (O&M)  
Date of decision: 21.08.2023

Vishal Khanna

....Petitioner

**Versus**

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present : Mr. Sachin Ohri, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

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**AMAN CHAUDHARY. J.**

1. On 10.05.2023, this Court had passed the following order:-

“1. Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.155 dated 13.12.2022, registered under Sections 21(b) and 29 of NDPS Act, 1985, at Police Station Sadar Gurdaspur, District Gurdaspur.

2. Learned counsel for the petitioner contends that the FIR has been registered in pursuance of recovery of 50 grams of heroin from the glove box of a car wherein co-accused Ankit Kumar and Akshay Kumar were travelling. The petitioner has been sought to be nominated on the basis of the disclosure statement of the co-accused. The petitioner is not involved in any other case much less under NDPS Act. The co-accused have been granted regular bail and the quantity of contraband alleged to have been recovered from them falls in the category of less than commercial quantity.

3. It has been further submitted that in CRM-M-55539-2022 titled as Vijay Singh Vs. State of Haryana, the petition under Section 438 Cr.P.C was dismissed by the Co-ordinate Bench of this Court by placing reliance upon State of Haryana Vs. Samarth Kumar, 2022(3) RCR (Crl.) 991 (Supreme Court). However, in a petition for Special Leave to Appeal (Criminal) No. 1266 of 2023 wherein the aforesaid order has been assailed, directions have been issued that no coercive steps be taken against the petitioner in terms of the order dated 03.02.2023.

4. Notice of motion.

5. Ms. Ruchika Sabherwal, DAG, Punjab accepts notice on behalf of the respondent-State. On instructions from ASI Kulbir Singh, she submits that as per the disclosure statement of both the co-accused, the petitioner had handed over the amount for the purchase of the contraband and same was to be

delivered to him. However, it has not been disputed that the co-accused have been granted regular bail and the petitioner is not involved in any other case.

6. Adjourned to 21.08.2023.

7. Meanwhile, it is directed that in the event of arrest, the petitioner be admitted on interim bail on furnishing bail bonds to the satisfaction of the Arresting Officer subject to the condition that he joins the investigation and comply with other conditions as specified under Section 438(2) Cr.P.C.

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. 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 Kulbir Singh affirms the factum of joining the investigation by the petitioner and cooperating with the investigating agency. 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 10.05.2023 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 investigating 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

August 21, 2023  
M.Kamra

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