

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.206

Case No. : CRM-M-23887-2023

Date of Decision : July 20, 2023

Sukhchain Singh @ Happy Petitioner
vs.
State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Lokesh Sharma, Advocate
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

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GURBIR SINGH, J. :

1. This petition has been filed under Section 438 Cr.P.C. for grant of concession of anticipatory bail to the petitioner in case bearing FIR No.33 dated 20.01.2023, under Sections 15(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as – the Act), registered at Police Station Sadar Fatehabad, District Fatehabad.
2. As per version of prosecution, the case in question was registered at the instance of SI Mahender Singh that he received secret information that Ravi @ Bhaiya, who was an old smuggler of poppy husk and a convict, was out on bail. He was having one white colour Glanza car. He would be coming in the said car bearing No.HR-22-T-6922 with huge quantity of poppy husk. So, report under Section 42 of the Act was prepared and sent to the concerned Police Station for sending the same to the higher Authorities. Barricading was done at the disclosed place. Ravi @ Bhaiya

came in the above mentioned car. He was apprehended and search was conducted as per rules. Five white colour plastic bags lying in the car were recovered. On searching the bags, poppy husk was found in all the bags. On weighing, each bag was found containing 20 kgs of poppy husk.

3. It is further the case of the prosecution that during investigation, Ravi @ Bhaiya got recorded his disclosure statement wherein he disclosed that he and the petitioner started doing the work of selling poppy husk together. He purchased 150 kg of poppy husk from one Vishnu and parked his aforesaid Glanza car along with the purchased contraband in the *Dhani* of the petitioner. Petitioner sold 50 kg of poppy husk to the drug addicts and remaining 100 kg was lying in his car for sale. The police apprehended him with the said poppy husk. It has also come in the disclosure statement of Ravi @ Bhaiya that he used to talk to the petitioner on his Whatsapp number and on the previous day also, he was discussing with him regarding selling of poppy husk.

4. Learned counsel for the petitioner states that the petitioner has only been named by the co-accused while in custody. The petitioner is not at all involved in this case. No recovery is to be effected from the petitioner. He is ready to join investigation.

5. On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioner submitting that commercial quantity of poppy husk was recovered from the possession of the co-accused Ravi @ Bhaiya and as per his disclosure statement, petitioner had also sold 50 kg of poppy husk to the drug addicts. They were dealing in poppy husk together. Therefore, he was nominated in the instant case. The co-accused

also made statement that he used to call the petitioner on WhatsApp. Two mobile phones of co-accused Ravi @ Bhaiya have already been sent to Forensic Science Laboratory for retrieving the data of WhatsApp. It has further been submitted by learned State counsel that the present petitioner is also a drug peddler and he remained involved in two other cases under the NDPS Act. Recovery of the contraband effected from the possession of co-accused Ravi @ Bhaiya is of commercial quantity. Moreover, mobile phone and SIM card is yet to be effected from the petitioner. Therefore, custodial interrogation of the petitioner is required and he does not deserve the concession of anticipatory bail.

6. I have heard learned counsel for the parties in detail and also perused the case file.

7. The allegations levelled against the petitioner are quite serious. The petitioner had sold 50 kg of poppy husk out of 150 kg, brought by the co-accused Ravi @ Bhaiya. The petitioner and co-accused are dealing in poppy husk. As the petitioner and co-accused were talking to each other on WhatsApp, recovery of mobile phone is also necessary, which is yet to be effected from the petitioner. The menace of drug is eating the basic framework of the society like a termite. The evidentiary value of the disclosure statement cannot be seen at this stage, as held in the case of **State of Haryana vs. Samarth Kumar** reported as **2022(3) RCR (Criminal) 991 (Criminal Appeal No.1005 of 2022, decided on 20.07.2022)** wherein it has been specifically observed that defence regarding the name of accused in the disclosure statement is a ground for regular bail and not for anticipatory bail.

Unless some harsh steps are not taken, the supply of drug-chain cannot be

stopped. The petitioner is also involved in two other cases under the NDPS Act.

8. Keeping in view the gravity of offence and all the circumstances noted above, I am of the view that custodial interrogation of the petitioner is necessary. The petitioner is not entitled to the concession of anticipatory bail.

9. Dismissed.

10. However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

11. Pending applications, if any, shall stand disposed of along with this judgment.

July 20, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.