

211

2023:PHHC:103194

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-25024-2023

Date of decision: 9th August, 2023

PRINCE KUMAR

...Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P. S. Sekhon, Advocate for the petitioner.

Mr. Ramdeep Pratap Singh, Sr. DAG Punjab

AVNEESH JHINGAN, J (Oral):

1. The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
80	9 th April, 2023	City Kapurthala, District Kapurthala	21 and 29 of the NDPS Act

2. On 06.06.2023, following order was passed:-

- “1. Petitioner-Prince Kumar, aged 29 years has filed the instant petition for seeking anticipatory bail in FIR No.80 dated 09.04.2023 under Sections 21 & 29 of Narcotic Drugs & Psychotropic Substances Act, at Police Station City Kapurthala, District Kapurthala.
2. Counsel for the petitioner submits that on being intercepted by the police, from the possession of main accused Vijay Kumar and Pawan Kumar, 260 gms of heroin wrapped in polythene was recovered beneath the seat of said motorcycle on 09.04.2023 and accordingly FIR (ibid) was registered against both of them.
3. As per the allegations, counsel for the petitioner further submits that subsequently, vide separate disclosure statement dated 11.04.2023 of co-accused/main accused, name of the petitioner was

- involved in the case only for the reason that motorcycle, used by both the main accused, was registered in the name of petitioner. However, there is no material with the prosecution till date showing any direct or indirect involvement of the petitioner, worth to give an observation today that there is likelihood of convicting the petitioner.
4. Counsel for the petitioner also argues that except the present case, petitioner has never been found indulged in any other case punishable under the Narcotic Drugs & Psychotropic Substances Act.
 5. Status report dated 06.06.2023, by way of affidavit of Maninder Pal Singh, PPS, Deputy Superintendent of Police, Sub Division Kapurthala, District Kapurthala, on behalf of the respondent, has been filed by learned State counsel, in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place. A copy thereof has been handed over to the counsel for the petitioner.
 6. Learned State counsel submits that motorcycle which was used by the co-accused/main accused is owned by the present petitioner, thus such an evidence is enough to assume the direct involvement of the petitioner. He also informs the Court that petitioner has faced other two criminal cases also but he admits that there is no other case registered against him under the Narcotic Drugs & Psychotropic Substances Act.
 7. On being asked by the Court in specific, whether except the disclosure statement relied upon by the prosecution, till date any substantial piece of evidence is available against the petitioner or not. Learned State counsel after getting instructions from ASI Sham Singh, who is present before this Court informs that there is no other material available till date against the petitioner.
 8. I have heard the submissions addressed by both the counsel and perused the record as well as the status report. This Court is of the view that in the backdrop of the circumstances that no other case is ever registered against the petitioner punishable under the NDPS Act except the present one. Thus, sending him behind the bars that too therebeing no other evidence with the prosecution except of the disclosure statement; may prove fatal in the entire future career of the petitioner.
 9. Consequently, petitioner is directed to join the investigation on 14.06.2023 or as and when required to do so by the Investigating Agency. In the event of his arrest, the petitioner shall be released on ad-interim bail, subject to his furnishing bail bonds to

the satisfaction of the Arresting Officer. The petitioner shall also abide by all the conditions laid down under Section 438 Cr.P.C.

10. Adjourned to 09.08.2023. ”

3. Learned State counsel on instructions submits that petitioner has joined investigation and co-operating with the Investigating Team.

4. As the petitioner has joined the investigation and lending co-operation, the interim bail granted is made absolute subject to comply with the conditions laid down under Section 438 (2) Cr. P.C..

5. Disposed of accordingly.

6. Since the main case has been decided, the pending applications, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

9th August, 2023

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |