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(219) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 17.07.2023

RANJIT SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail in case bearing FIR No.30 dated 28.02.2023 (Annexure P-1) registered under Section 15 (Act No.61) of the NDPS Act, 1985 and Section 29 of the NDPS Act added later on at Police Station Tapa Mandi, District Barnala.

2. The brief facts of the case are that while the police party was on patrolling duty and had held a *Nakabandi* on the Drain Bridge Dhilwan Road in the area of Tapa in connection with the checking of suspected persons, then at about 03.00 AM one motorcycle was seen coming from the village Dhilwan side and the motorcyclist was holding one plastic bag between his thighs on the petrol tank of the motorcycle. He was signalled to stop got perplexed and tried to make a U-turn but was apprehended. On enquiry he disclosed his name as Gursewak Singh @ Kali son of Darshan

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Singh. After complying with the provisions of the Act regarding search and seizure, he was found in possession of 5 kgs of poppy straw.

During the investigation of the case, on 01.03.2023, Gursewak Singh disclosed that he had brought the said poppy straw from Ranjit Singh (petitioner). On the basis of the said disclosure statement, the petitioner was nominated as an accused in the present case.

3. The learned counsel for the petitioner contends that as the petitioner has been named in the disclosure statement of his co-accused without any corroborative evidence, he was entitled to the concession of bail. Reliance is placed on the judgments in the cases of *Tofan Singh Versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592*, *Rakesh Kumar Singla Versus Union of India, 2021(1) RCR (Criminal) 704*, *Surinder Kumar Khanna Versus Intelligence Officer Directorate of Revenue Intelligence, 2018(3) RCR (Criminal) 954*, *State by (NCB) Bengaluru Versus Pallulabid Ahmad Arimutta & Anr. 2022(1) RCR (Criminal) 762*, *Sanjeev Chandra Agarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590*, *Vijay Singh Versus The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s).1266/2023 decided on 17.05.2023* and *Vikrant Singh Versus State of Punjab, CRM-M-39657-2020*.

4. A reply dated 17.07.2023 by way of an affidavit of Ravinder Singh, PPS, Deputy Superintendent of Police Tapa (Barnala) has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner is a habitual offender and apart

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from the present case, the petitioner is an under-trial in two other cases bearing FIR No.66 dated 08.07.2018 Police Station Sadar Rampura under Section 15 of the NDPS Act and FIR No.162 dated 05.09.2021 Police Station Nihal Singh Wala under Section 15 of the NDPS Act. In addition, the petitioner had been acquitted in three other cases under the NDPS Act bearing FIR No.81 dated 25.05.2005 under Section 15 of the NDPS Act Police Station City Rampura, FIR No.46 dated 14.07.2006 under Section 145 Railway Act Police Station GRP Bathinda and FIR No.174 dated 16.12.2008 under Section 15 of the NDPS Act Police Station Tapa. He, therefore, contends that the antecedents of the petitioner did not entitle him to the grant of anticipatory bail in the peculiar facts and circumstances of the present case as the twin conditions envisaged under Section 37 of the NDPS Act could not be satisfied.

5. I have heard the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of **State of Haryana Versus Samarth Kumar** (supra), held as under:-

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in Tofan Singh v. State of Tamil Nadu reported in (2021) 4 SCC 1.

5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on

the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.

7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.

8. In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh v. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.

9. To grant anticipatory bail in a 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 respondents.

10. In view of the above, the appeals are allowed. The impugned orders are set-aside. As a consequence, the Appellant-State is entitled to take steps, in accordance with law.

[emphasis supplied]

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7. However, in *Vijay Singh Versus The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s).1266/2023 decided on 17.05.2023*, it was held as under:-

“The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act”. His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail.

Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose.

The petition is allowed.

All pending applications are disposed of.”

(emphasis supplied)

8. Coming back to the facts of the present case, it is pertinent to note here that other than the instant FIR in which the petitioner has been nominated as an accused on the basis of the disclosure statement of the arrested accused, the petitioner is also an accused in two other cases under the NDPS Act. In addition, he had been an accused in three other cases, though he has been acquitted in the said cases. It is highly unlikely that the

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petitioner would have been implicated in multiple FIRs at the whims and fancies of the Investigating Agency.

9. When there are multiple FIRs against a person over a significant period of time (in this case 18 years), then even though he may have been acquitted in some of those cases, the twin conditions as envisaged under Section 37 of the NDPS Act that he has not committed an offence and was not likely to commit an offence cannot be satisfied.

10. Keeping in view the conduct of the petitioner and his criminal antecedents, his custodial interrogation would certainly be necessary to effect necessary recoveries and to take the investigation to its logical conclusion.

11. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

17.07.2023

JITESH

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