

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28721-2022 (O&M)
Date of Decision:-.22.05.2023

MANJINDER SINGH ALIAS SONU BEHAL

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Rahul Arora, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

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KARAMJIT SINGH, J. (Oral)

1. Prayer is for grant of anticipatory bail in case having FIR No.298 dated 16.11.2021 registered under Section 15 NDPS Act (Sections 25 & 29 NDPS Act) at Police Station Sadar Fazilka, District Fazilka.
2. Allegations in brief are that the police recovered 90 kgs. poppy husk from a canter, in which co-accused Darshan Singh @ Kala and Jaj Singh were travelling. During questioning, both of them disclosed that said canter was owned by Gurmej Singh and they further disclosed that petitioner who is doing the business of transportation of

apples was also actively involved in drug trafficking and accordingly petitioner was nominated as accused.

3. The counsel for the petitioner submits that the petitioner was not named in the FIR and was later on impleaded as accused on the basis of alleged disclosure statement made by Darshan Singh and Jaj Singh and the relevance of the said disclosure statement will be tested during trial. The counsel for the petitioner further submits that as per the law laid down by Hon'ble Apex Court in **Tofan Singh vs. State of Tamil Nadu (2021)4 SCC(1)**, the alleged disclosure statement made by co-accused has got no relevance in the eyes of law. The counsel for the petitioner further submits that the petitioner be allowed to join investigation with the police.
4. The present petition is contested by the State counsel, who submits that the commercial quantity of the contraband was recovered from co-accused Darshan Singh and Jaj Singh. The State counsel further submits that the petitioner is not entitled to get benefit of anticipatory bail as per the provision of Section 37 of the NDPS Act.
5. I have considered the submissions made by counsel for the parties.
6. As has been submitted by the State counsel, commercial quantity of contraband was recovered from co-accused Darshan Singh and Jaj Singh and as such rigors of Section 37 of the NDPS Act are applicable in the instant case. Further, the petitioner cannot take advantage of the decision in **Tofan Singh's** case (supra), while seeking concession of anticipatory bail perhaps he can take advantage of the ratio laid

down in **Tofan Singh’s** case (supra) at the time of seeking regular bail or at the time of final hearing after conclusion of trial as has been held by Hon’ble Supreme Court in **Criminal Appeal No.1005 of 2022**, decided on **20.07.2022, State of Haryana Vs. Samarth Kumar**.

7. In the light of the above, this Court is of the view that custodial interrogation of the petitioner is required for the proper and effective investigation to go to the root of the case.
8. Accordingly, the present petition is hereby dismissed being devoid of merits. However, any observations made hereinabove are not to be construed as opinion on the merits of the case.

22.05.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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