

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

213

CRM-M-28593-2023

Date of decision: 14.09.2023

Pawan

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. KL Saini, Advocate for the petitioner.

Mr. Ravish Kaushik, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. On 02.06.2023, this Court had passed the following order:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in a case FIR No.167, dated 14.05.2023, registered under Section 20 of NDPS Act, 1985, Section 27-A of the NDPS Act added lateron, at Police Station Julana, District Jind.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in this case. He has submitted that as per case of the prosecution, barricading was laid by the police party on the basis of secret information received regarding co-accused, namely, Manoj and Rahul. He submits that on the basis of that secret information both co-accused Manoj and Rahul were stopped by the police party and on their search 435 grams of charas was recovered from the pocket of co-accused Manoj. He submits that on the basis of interrogation of these co-accused, the petitioner was arrayed as accused on the basis of their disclosure statement. He submits that neither the petitioner was named in the secret information nor any recovery was effected from him, however, the sole ground for his implication in the present FIR is disclosure statement of the co-accused, which itself is not admissible evidence as per Section 27 of the Evidence Act. He further submits that even otherwise contraband recovered from the co-accused falls under the category of non-commercial quantity, thus, provisions of Section 37 of NDPS are not even attracted in this case. He fairly submits that though the petitioner has been prosecuted in two more cases of similar nature, however, he is on bail in those cases. He submits that in the facts and circumstances, the petitioner deserves to be granted anticipatory bail.

Notice of motion.

Mr. Kirpal Singh Thakur, Assistant Advocate General, Haryana, accepts notice.

Adjourned to 11.07.2023.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

(i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.

(ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iii) That the petitioner shall not leave India without prior permission of the court.”

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 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 any 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 02.06.2023 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

14.09.2023
ashok

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