

CRM-M-30574-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30574-2023

Date of decision: 01.08.2023

Sukhdev Singh

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Bhavdeep Singh Mamli, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.252 dated 12.05.2023, registered at Police Station Sadar Fatehabad, District Fatehabad, under Section 22(b) NDPS Act, which was subsequently changed under Sections 21-A and 27-A NDPS Act (added later on).

2. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner was not named in the FIR, but has been indicted on the disclosure statement of co-accused-Santa Singh from whom recovery of 05 gram of heroin had been effected. It is further submitted that the extent of contraband recovered in the present case, falls under non-commercial quantity and that the aforesaid co-accused has since been granted the concession of regular bail. So far as two other cases registered or pending against the petitioner, under the NDPS Act, is concerned, he has been released on bail therein.

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3. Notice of motion.

4. On the asking of this Court, Mr. Rupinder Singh Jhand, Addl. A. G. Haryana, accepts notice on behalf of the respondent-State, and submits that the petitioner is a habitual offender and he has as many as two other cases registered or pending against him, under the NDPS Act.

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

6. As per the prosecution version, 05 gram of heroin had been recovered from co-accused Santa Singh. During investigation, the co-accused suffered a disclosure statement that he had purchased the contraband from the petitioner for an amount of Rs.12,000/-. The extent of contraband recovered in the present case, falls under non-commercial quantity.

7. Indisputably, the petitioner was not arrested at the spot and he has been indicted in the present case on disclosure statement of the co-accused. However, the aforesaid grounds cannot be the sole consideration for grant of pre-arrest bail. As to whether the petitioner has been falsely implicated or not, would be subject matter of the investigation.

8. The Hon'ble Supreme Court in 'State of Haryana Vs. Samarth Kumar', Criminal Appeal No.1005 of 2002, decided on 20.07.2022, has held that advantage of the fact that no recovery was/is to be effected and that the petitioner has been indicted on the disclosure statement of the co-accused, as held in Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1, can be taken into consideration while dealing with the regular bail application or at the time of final hearing after conclusion of the trial.

9. The NDPS Act is a self-contained statute which specifically

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deals with menace of drugs. Stringent provisions have been provided therein for dealing with such cases. Moreover, the petitioner has as many as two other cases registered or pending against him, under the NDPS Act. In the considered opinion of this Court, the purpose of investigation would stand defeated by allowing the petitioner to join investigation, especially keeping in view his antecedents. Moreover, the criminal antecedents of the habitual offender(s) like the petitioner, which shatter the very tranquility of the collective, do not entitle him to be enlarged on bail.

10. In view of the above, this Court finds that the petitioner is required for custodial interrogation to ascertain his role and to take the investigation to its logical conclusion.

11. Therefore, finding no merit in the present petition, the same is dismissed.

01.08.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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