

223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31215-2023

Date of Decision:07.08.2023

Javed Malik

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. J.S.Thakur, Advocate
for the petitioner.

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.40 dated 14.05.2023 registered under Section 22 of NDPS Act, 1985 (Section 29 of NDPS Act, 1985 added later on), at Police Station Chabbewal, District Hoshiarpur.

Learned counsel for the petitioner submits that similarly placed co-accused, namely, Pravez has been granted the concession of interim anticipatory bail by this Court and while issuing notice of motion, this Court has passed the following order:-

“The petitioner has filed the present petition under Section 438 of Cr. PC for grant of anticipatory bail in case FIR No.40 dated 14.05.2023, under Section 22 NDPS Act, (Section 29 of NDPS Act added later on) registered at Police Station Chabbewal, District Hoshiarpur.

As per the case of the prosecution, S.I. Gurnam Singh, who was heading a police party, was on patrolling duty and one motorcycle TVS Victor was seen coming from the opposite side,

which was being driven by a young person. The police party got suspicious and the motorcycle was stopped, but the young person tried to turn the motorcycle and ran away from the spot. However, he was apprehended by the police and he threw one packet on the road. On enquiry by the police, he revealed his name as Vipin Kumar @ Deepu son of Harmesh Chandan and it was found that the packet, which was thrown by him, contained contraband.

After the arrest of Vipin Kumar @ Deepu, he disclosed that he had purchased the said tablets from Nitin Bhardwaj. On the basis of said statement, Nitin Bhardwaj was arrested by the police, who further disclosed that he had purchased the intoxicant tablets from Randeep Singh @ Jassi and 20,000/- tablets along with Rs.10,000/- were recovered from Nitin Bhardwaj. During the interrogation of Randeep Singh@ Jassi, the name of Mohit surfaced and accordingly, Mohit was also arrested in the present case. Mohit also further disclosed that he had purchased the tablets from Nitin Sharma son of Mukesh Sharma. The police arrested Nitin Sharma, who disclosed during his interrogation that he had brought the intoxicants from Javed Malik @ Javed Ali, Parvez and Ajay Kumar all residents of Uttar Pardesh. At the instance of Nitin Sharma, 1500 tablets of Tramadol and 600 tablets of Alprazolam were recovered. During the course of interrogation, Javed Malik @ Javed Ali stated that he used to run the business with the connivance of Parvez and Ajay Kumar.

It has been contended that the petitioner has been falsely involved in the present case. The only evidence against the present petitioner is the disclosure statement suffered by the co-accused, while he was in police custody and the admissibility of the said statement is yet to be tested during the course of trial. It is further contended that there is no other case against the present petitioner and no recovery is to be effected from him.

On the other hand learned State counsel submits that the present petitioner along with Ajay Kumar and Javed Malik @ Javed Ali were running the business of selling intoxicant and keeping in view the gravity of the offence, he is not entitled for grant of anticipatory bail.”

Learned counsel for the petitioner submits that the petitioner is at par with his co-accused Pravez.

On the other hand, learned State counsel has vehemently opposed the prayer made by the present petitioner on the ground that there are serious allegations against the present petitioner. He, however, admits that no other case has been registered against the present petitioner.

I have heard learned counsel for the parties and perused the record.

It is not in dispute that similarly placed co-accused Pravez has been granted the concession of interim anticipatory bail by this Court, whereas the petitioner is in custody since 07.05.2023 and no recovery has been effected from him. Further, the conclusion of the trial will take a long time.

Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

(N.S.SHEKHAWAT)
JUDGE

07.08.2023
hemlata

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