

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-32042-2023
Date of Decision: 12.09.2023

Sajan Kumar
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Priyanshu Kamra, Advocate,
for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab.

FIR No.	Dated	Section/s	Police Station
98	26.05.2023	18(c) of NDPS Act	Sri Muktsar Sahib, Punjab

VIKAS SURI, J.

[1] The instant petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in the above-captioned FIR.

[2] Brief facts of the case are that three boys were coming on a motorcycle being driven at a very high speed. When the police party signalled them to stop, the driver of the motorcycle tried to return back, upon which he lost balance and two of the pillion riders along with one black colour handbag fell down. The driver of the motorcycle was able to flee

from the spot but both pillion riders were apprehended by the police at the spot. Upon inquiry, they disclosed their names as Sahib Singh and Satnam Singh. They also disclosed the name of the driver of motorcycle as Sajan Kumar. Upon search of bag, 600 grams opium was recovered and FIR in question was registered.

[3] Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the recovery of 600 grams opium has been effected from co-accused, who were alleged to have been apprehended at the spot. Petitioner has been nominated in this case on the basis of disclosure statement. It is submitted that no recovery is to be effected from the petitioner and he is ready and willing to join investigation and cooperate with the same.

[4] *Per contra*, learned State counsel submits that the name of the petitioner was disclosed by his co-accused at the spot when they were apprehended and petitioner has been named in the FIR. He submits that the petitioner is the main accused as he was driving the motorcycle and when he was signalled to stop, he turned back the motorcycle and fled away from the spot. He further submits that the petitioner is a habitual offender as he is facing trial in two other cases under the NDPS Act, one of which is pending for 29.09.2023 in the Court of Judge, Special Court, Sri Muktsar Sahib. He, thus, submits that custodial interrogation of the petitioner is required for the purpose of fair investigation.

[5] I have heard learned counsel for the parties and gone through the records of the case.

[6] Having heard learned counsel for the parties and keeping in view the nature of allegations levelled against the petitioner, this Court is of the considered view that the petitioner does not deserve the concession of anticipatory bail at this stage.

[7] Allegations against the petitioner are that he was riding the motorcycle and when police party signalled him to stop, he turned it and fled away from the spot. It is not a case where the petitioner has been nominated in the case on the basis of disclosure statement of co-accused, rather his name was disclosed by the co-accused at the spot and he has also been specifically named in the FIR. Further, the petitioner is involved in two other cases of similar nature, wherein recovery of 500 grams opium and 100 grams opium, respectively, has been effected from his conscious possession.

[8] In para 10 of the status report dated 02.08.2023, a categorical stand has been taken by the respondent-State that the petitioner is a drug peddler and is trafficking opium around the area of Abohar and Malout. Petitioner is further alluring the young people to indulge in drug peddling. It is also mentioned that the motorcycle, which was used in the commission of offence, also remains to be recovered from the petitioner. It is further stated that the source from whom the petitioner has procured the opium and number of people involved in the nexus is also to be investigated and for the said purposes, his custodial interrogation is essential. In case the present

petition is allowed, there are chances of petitioner indulging again in similar illegal activities.

[9] In light of the above factual position and keeping in view the antecedents of the petitioner as also the gravity of offence, this Court does not find it to be a fit case to grant indulgence and thus, the present petition is dismissed.

[10] However, anything observed hereinabove is only for the purpose of instant petition and is neither an expression on the merits of the case nor shall the trial Court advert to these comments.

September 12, 2023
harish

(VIKAS SURI)
JUDGE

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