

CRM-M-33400 of 2023

2023:PHHC:089140

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

CRM-M-33400 of 2023

Date of decision: 14.07.2023

Akashdeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Ms. Manpreet Ghuman, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.6 dated 05.01.2023 under Sections 22/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sohana, District SAS Nagar Mohali.

2. According to the prosecution, brief facts of the case are that on 05.01.2023, HC Gurtej Singh alongwith LC Kiranjot Kaur was present at Bakarpur Chowk, Airport Road, Mohali and was checking the vehicles. Inspector Tajinderpal Singh, Incharge, PCR, Mohali alongwith police officials came at the spot and they were joined in police party. At about 8 p.m. one vehicle came from Zirakpur side and police party gave signal to stop the said vehicle and the driver of vehicle tried to drive away the vehicle but the driver of the vehicle was

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apprehended with the help of police party. One plastic polythene containing strips of intoxicant tablets was lying near the gear of vehicle bearing registration no. HR-26CD8451. On inquiry, driver of vehicle disclosed her name as Davinder Kaur d/o Harbhajan Singh. On search, 46 strips of intoxicant tablets make Lomotil (each strip containing 60 intoxicant tablets total 2760 intoxicant tablets) and 85 strips of intoxicant tablets make Tramadol (each strips containing 10 tablets total 850 intoxicant tablets) were recovered from the possession of co-accused Davinder Kaur. During interrogation, co-accused Davinder Kaur disclosed that petitioner had kept the intoxicant tablets in her car.

3. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case. He is not named in the FIR. No recovery has been effected from the petitioner. Petitioner has been implicated only on the basis of disclosure statement of the main accused, which has no evidentiary value. She further submits that petitioner is not involved in any other case and he is ready and willing to join the investigation.

4. On the other hand, learned State counsel, who has appeared on receipt of advance copy of the paperbook, vehemently opposed the prayer for grant of anticipatory bail to the petitioner by submitting that he has been specifically named by her co-accused that the intoxicant tablets were kept by him in the car. Therefore, he does not deserve the concession of anticipatory bail.

5. I have heard learned counsel for the parties and gone through the record.

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6. In *State of Haryana vs Samarth Kumar, 2022 Live Law (SC) 622*, the Hon'ble Supreme Court held that the accused is not entitled for anticipatory bail only on the ground that no recovery was effected from the accused and he has been implicated on the basis of disclosure statement.

7. In *Samrath Kumar's* case (supra) the Hon'ble Supreme Court observed as under:-

“In cases of this nature, the respondent may be able to take advantage of the decision in Tofan Singh vs State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after the conclusion of the trial. To grant anticipatory bail in case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondent.”

8. A huge recovery of intoxicant tablets has been effected from the co-accused of the petitioner, without any permit or licence and the petitioner has been specifically named as accused by co-accused Davinder Kaur in her disclosure statement. Therefore, to conduct a thorough probe, custodial interrogation of the petitioner is necessary.

9. Moreover, this is second petition for grant of anticipatory bail to the petitioner. First petition i.e. CRM-M-21618 of 2023 was got dismissed as withdrawn on 01.05.2023.

10. The law relating to successive bail applications is well-settled. An accused has right to make successive applications for grant of bail. But the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail

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applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications (See **Kalyan Chandra Sarkar v. Rajesh Ranjan : AIR 2004 SC 1866**). A bail application in a case where earlier applications have been rejected is maintainable only when there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete (See **Kalyan Chandra Sarkar v. Pappu Yadav : AIR 2005 SC 921**).

11. A perusal of the averments made in this second bail petition shows that the petitioner has failed to show any better or fresh particulars in this petition which were not demonstrated in the earlier petition nor any substantial change in the circumstances have been pointed out by learned counsel for the petitioner.

12. Having considered the above aspects, in the absence of any change in fact situation or law with regard to the case in hand except change of counsel, I find that the petitioner is not entitled to grant of anticipatory bail. Consequently, the petition is dismissed with costs of Rs.5,000/- to be deposited with the Punjab and Haryana High Court Lawyers' Welfare Fund.

14.07.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No