

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-33565-2023 (O&M)

Date of decision : 6.12.2023

Rohit Teji

... Petitioner

VERSUS

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Davinder Singh, Advocate,
for the petitioner.

Mr. Vinay Kumar Gupta, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in this 2nd petition is for grant of anticipatory bail to the petitioner in criminal case having FIR No.13 dated 14.1.2023 registered under Sections 21, 29 of NDPS Act at Police Station Sadar Ferozepur, District Ferozepur.

2. Brief facts of the case are that the police registered FIR against one Rohit son of Jinder on the basis of secret information and thereafter, said Rohit son of Jinder was arrested along with 357 grams of Heroin. During the investigation, the aforesaid co-accused suffered disclosure statement to the effect that he procured the aforesaid contraband from the present petitioner namely Rohit Teji and thereafter, the petitioner was nominated as accused. The petitioner apprehending his arrest, earlier also filed bail application under Section 438 of Cr.P.C. but the same was dismissed as withdrawn vide order dated 17.4.2023 (Annexure P-4).

application moved by the petitioner was not decided on merits. It is further contended that the petitioner was not named in the FIR and nominated as accused on the basis of the disclosure statement of co-accused which is not binding on the petitioner. It is further contended that on completion of investigation, the police presented the challan against co-accused/Rohit son of Jinder and further, the petitioner is having no criminal history and is ready to join investigation with the police. So, prayer is made that the petitioner be granted anticipatory bail.

4. Present petition is resisted by the State counsel who *inter alia* submits that the commercial quantity of contraband was recovered from co-accused Rohit son of Jinder who further disclosed that he purchased the said contraband from the petitioner. It is further submitted that the petitioner is required by the police for proper investigation of the case; that even otherwise, second bail application filed by the petitioner is not maintainable. In this regard, State counsel has placed reliance upon the decision of Hon'ble Supreme Court in **Kalyan Chandra Sarkar etc. v. Rajesh Ranjan @ Pappu Yadav and another**; (2005) 2 SCC 42 wherein it was held that it is not open to the aggrieved person to make successive bail applications. State counsel further submits that the present case being relating to commercial quantity of contraband is covered under rigors of Section 37 of NDPS Act. So, prayer is made that the present petition be dismissed.

5. I have considered the submissions made by the counsel for the parties.

6. Undoubtedly, previous bail application was dismissed as withdrawn by this Court vide order dated 17.4.2023 (Annexure P-4) and the said fact also goes against the petitioner. Furthermore, the petitioner has

been named as accused in the present case on the basis of the disclosure statement of co-accused from whom the police recovered 357 grams of Heroin and there are allegations that the said contraband was procured by the co-accused from the petitioner only. Recovery from co-accused being of commercial quantity, stringent provisions of Section 37 of NDPS Act are applicable to the case of the petitioner. The petitioner is required by the police for proper and effective investigation of the case and custodial interrogation of the petitioner is required to go to the root of the case.

7. In view of above, this Court is of the view that no ground is made out to grant anticipatory bail to the petitioner. Consequently, this second petition for grant of anticipatory bail filed by the petitioner is hereby dismissed. However, observations, if any, made hereinabove, are not to be construed as expression of opinion on the merits of the case.

(KARAMJIT SINGH)
JUDGE

December 6, 2023
Paritosh Kumar

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