

CRM-M-34150-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34150-2023

Date of decision: 03.08.2023

Junaid

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Harsh Mehla, Advocate,
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A. G. Haryana.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.113 dated 01.06.2023, registered at Police Station Farakpur, District Yamuna Nagar, under Section 21-B NDPS Act.
2. Reply dated 28.07.2023 by way of affidavit of the Deputy Superintendent of Police-I, Yamuna Nagar, filed in the Registry, is taken on record.
3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR, rather has been indicted on the disclosure statement of co-accused, Lekh Raj alias Happy from whom recovery of contraband had been effected; that the extent of contraband recovered in the present case, is marginally above the small quantity and that the aforesaid co-accused has since been granted the concession of regular bail by learned Addl. Sessions Judge, Yamuna Nagar.

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4. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the petitioner is a habitual offender and he has as many as three 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, 17.40 gm heroin was recovered from the possession of co-accused Lekh Raj alias Happy. The petitioner has been booked being source for supplying the contraband to the co-accused.

7. Indisputably, the petitioner was not arrested at the spot, but has been indicted on the 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 deals with menace of drugs. Stringent provisions have been provided therein for dealing with such cases. Moreover, the petitioner has as many as three other cases registered or pending against him, under the NDPS Act.

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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. The petitioner cannot claim parity with the co-accused for the reason that he has been released on regular bail and furthermore as stated above, the petitioner is involved in three other cases of similar nature.

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.

03.08.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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