

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

106

CRM-M-34362-2023

Date of Decision :-19.07.2023

Sanjay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. K.L. Saini, Advocate for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

Present petition has been filed for the grant of anticipatory bail to the petitioner in respect of FIR No.04 dated 03.01.2022 registered under Sections 20 and 27-A of the Narcotic Drugs and Psychotropic Substance Act, 1985 (IN short, 'NDPS Act') at Police Station Sadar Jind, District Jind.

Learned counsel for the petitioner argues that in the present case, no recovery of contraband has been effected from the petitioner and the petitioner has been roped in the present case only on the basis of the disclosure statement of the co-accused namely, Kuldeep Singh and as the petitioner is ready to join and cooperate in investigation, he may kindly be granted concession of anticipatory bail.

Learned State counsel submits that the petitioner is already facing two more cases relating to the violation of NDPS Act and as per the disclosure statement of the co-accused-Kuldeep Singh, he has purchased the contraband substance from the petitioner. Learned State counsel further submit that the fact as to from where the petitioner has got the said

contraband needs to be discovered hence, custodial interrogation of the petitioner is necessary

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It may be noticed that recovery has been effected from the co-accused Kuldeep Singh on the basis of the secret information received and as per the disclosure statement of the said co-accused Kuldeep Singh, he has purchased the contraband recovered from the petitioner hence, the custodial interrogation of the petitioner is necessary to find out the truth as to from where the said contraband was purchased by the petitioner which was further sold to the co-accused Kuldeep Singh.

It is a conceded position that the petitioner is already facing two more cases relating to the violation of NDPS Act but though, he has already secured the bail in those cases but the allegations in the present case have come during the period when the petitioner was on bail in the other cases, which fact shows that the petitioner has not mended his ways and is still indulging in these banned activities. Further, qua the argument of the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case cannot be believed as the learned counsel for the petitioner has not been able to point out as to who is inimical to the petitioner so as to involve him in a false case.

Further, this is not a case, where allowing the petitioner to join investigation and cooperate will achieve purpose of investigation. Even the Hon'ble Supreme Court of India in ***State represented by the C.B.I. Vs. Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, has held that in case where serious allegations have been alleged and the truth needs to be elicited from the

accused, the same can only be done through the custodial interrogation as compared to questioning a suspect, who is already on anticipatory bail. In the facts and circumstances of this case, custodial interrogation of the petitioner is necessary to elicit truth.

Keeping in view the facts and circumstances recorded hereinbefore, no ground is made out to allow the present petition seeking anticipatory bail to the petitioner.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

July 19, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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