

CRM-M-34933-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34933-2023

Date of decision: 21.07.2023

Jagga Singh @ Jaggi

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. D.S.Virk, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.341 dated 26.06.2023, registered at Police Station Rania, District Sirsa, under Sections 17-B and 27 NDPS Act, 1985.

2. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner was indicted on the disclosure statement of the co-accused from whom recovery of 100 gram opium had been effected; that the extent of contraband recovered from the co-accused, does not fall within the ambit of 'commercial category and, therefore, provisions of Section 37 NDPS Act would not apply in the present case. It is further submitted that out of four other cases registered or pending against the petitioner, under the NDPS Act, two cases pertain to the recovery of non-commercial quantity whereas in remaining two cases, he was indicted on the disclosure statement of the co-accused. It is further submitted that the petitioner was involved in FIR No.340 dated 25.06.2023, registered at Police Station Rania, under the NDPS Act, and that on the next day i.e. 26.06.2023, he was involved in the

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present case. In support of his contentions, learned counsel relies upon the order dated 17.05.2023 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.1266-2023, titled as 'Vijay Singh Vs. State of Haryana'.

3. I have heard the learned counsel for the petitioner.

4. There is allegation against the petitioner that he had supplied the contraband to the co-accused. Indisputably, the petitioner was not named in the FIR, but has been indicted on the disclosure statement of the co-accused. Though the extent of contraband recovered in the present case, falls under 'intermediate quantity', yet the fact remains that the petitioner is a habitual offender and has as many as four other cases registered or pending against him, under the NDPS Act.

5. The Hon'ble Supreme Court in Criminal Appeal No.1005 of 2002 titled as 'State of Haryana Vs. Samarth Kumar', decided on 20.07.2022, has held that advantage of the fact that no recovery was/is to be effected from the petitioner 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.

6. The Hon'ble Supreme Court in Vijay Singh's case (supra), has granted the benefit of anticipatory bail to the petitioner therein despite the fact that he had another case under the NDPS Act. However in the present case, series of involvement of the petitioner in other cases (even on the basis of disclosure statement(s) in some cases) would suggest that he has

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complicity with the commission of offence. Furthermore, after having been granted the concession of bail in other cases under the NDPS Act, the petitioner had indulged himself in the present case. The conduct of the petitioner is not above the board. If the relief as sought in the petition is granted to the petitioner, there is every possibility that he would further indulge himself into similar crimes again.

7. In view of the above, this Court finds that the petitioner is required for custodial interrogation to unearth the modus operandi and chain of supply of contraband.

8. Therefore, finding no merit in the present petition, the same is dismissed.

21.07.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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