

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M-38468-2022
Date of decision: 08.05.2023

Krishan Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. H. S. Mandev, Advocate
for the petitioner

Mr. H. S. Sullar, Sr. DAG, Punjab

AMAN CHAUDHARY. J.

1. The present petition under Section 438 Cr.P.C. has been filed for grant of anticipatory bail to the petitioner in case FIR No. 65 dated 11.08.2022, registered under Sections 22/29/61/85 of NDPS Act at Police Station Cheema, District Sangrur.
2. As per prosecution version, while the police party on patrolling duty and checking visited the village Jharon, on suspicion, a lady namely Harjit Kaur was apprehended and on her personal search, 260 tablets of Tramadol were recovered from her. During investigation, she suffered a disclosure statement that the alleged recovered intoxicant tablets were supplied to her by Krishan Singh i.e. the present petitioner, who is running a clinic in her village.
3. Learned counsel would contend that the petitioner was not apprehended at the spot. It is the co-accused namely Harjit Kaur, who had named him in her disclosure statement, from whom alleged contraband was recovered.

He has vehemently contended that the petitioner has been falsely implicated in the case. No recovery has been effected from him. He submits that the disclosure statement of the co-accused is not admissible and thus, there is no evidence against the petitioner regarding his complicity in the present case. He places reliance on the judgment in the case of **Tofan Singh vs. State of Tamil Nadu**, (2021) 4 SCC 1 to contend that the disclosure statement is inadmissible in evidence. The petitioner is ready and willing to join the investigation and cooperate with the investigating agency. Thus, he prays for grant of anticipatory bail to him.

4. Learned State counsel opposes the prayer on the ground that the recovery effected in the present case falls in the category of commercial quantity. Co-accused from whom the recovery of the contraband was made, had specifically named the petitioner that the alleged contraband was supplied by him. The petitioner is also involved in one more case, wherein also commercial quantity of contraband was effected and in the said case while granting regular bail by this Court in CRM-M-51549-2019 vide order dated 23.09.2020 had specifically observed that in case, the petitioner is subsequently found involved and guilty in any other case, the afore-mentioned amount i.e. papers of immovable property worth Rs.5 lacs can be forfeited and the same be deposited in the Government Treasury. Custodial interrogation of the petitioner is required in the instant case to find the source of origin, the entire chain of supply of contraband and the other drug peddlers involved, if any. There is every possibility of the petitioner fleeing from justice.

5. Heard.

6. It is apposite to make a reference to the order of Hon'ble The Supreme Court of India in the case of **Prabhulal vs. Central Bureau of Narcotics**, wherein the SLP (Crl.) 6722-2022 was dismissed vide order dated 14.12.2022, affirming the order of dismissal of anticipatory bail by Madhya Pradesh High Court, by observing thus:-

“We have heard learned counsel for the parties. We find no reason to grant pre-arrest bail to the petitioner as prayed for. The Special Leave Petition is, accordingly, dismissed.

The interim protection granted by order dated 11.10.2022 stands vacated in view of the dismissal of the special leave petition.

However, if the petitioner surrenders and apply for regular bail, the same may be considered by the Trial Court as expeditiously as possible on its own merits in accordance with law.”

7. Furthermore in the case of **State of Haryana vs. Samarth Kumar**, 2022 LiveLaw (SC) 622, Hon'ble The Supreme Court of India has held thus:-

“7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.

8. In cases of this nature, the respondents 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 conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into error in granting anticipatory bail to the respondents.

10. In view of the above, the appeals are allowed. The impugned orders are set aside. As a consequence, the Appellate –State is entitled to take steps, in accordance with law.”

8. In the case in hand, the present petition has been filed with the same facts that the name of the petitioner has surfaced based on the disclosure statement of co-accused Harjit Kaur, who was apprehended at the spot and recovery of the 260 tablets of Tramadol has been effected from her. She had categorically disclosed that the said contraband recovered from her was supplied by the petitioner, who is running a clinic in her village. Furthermore, the petitioner is involved in another case i.e. FIR No. 104 dated 16.08.2019, wherein recovery of commercial quantity was effected. In the said case, the petitioner was released on regular bail, on the undertaking given by him that he would deposit property papers of immovable property worth Rs.5 lacs and if he is subsequently found involved and guilty in any other case, the said amount can be forfeited to the State. The sole ground taken by the petitioner for grant of anticipatory bail that the disclosure statement of co-accused is inadmissible, has no force, in view of the decisions of Hon'ble The Supreme Court of India in the cases of **Prabhulal** and **Samarth Kumar** (supra). The custodial interrogation of the petitioner is necessary so as to complete the chain of supply and also to ascertain the persons who may be involved in this nexus. In case, the petitioner is granted the concession of anticipatory bail then prejudice would be caused to the case of the prosecution.

9. The stringent provisions as contained in the statute, are to deal with the drug menace plaguing the society, as the youth are being led on a path having deleterious effects, thereby destroying the very social fabric.

10. Keeping in view the facts and circumstances and the judgments

referred to above, this Court is not inclined to grant the concession of anticipatory bail to the petitioner. As a sequel thereto, the present petition being bereft of merit, is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

08.05. 2023
Mehak

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