

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38862-2020**Date of Decision: 23.01.2023**

Sukhchain Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Vijay K. Jindal, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J.

The petitioner seeks anticipatory bail in case FIR No.138 dated 01.07.2020 under Sections 22/29 NDPS Act, 1985 registered at Police Station Chattiwind, District Amritsar.

This petition was listed for the first time on 25.11.2020 and until 15.07.2021, the matter was adjourned time and again on the request of counsel for the petitioner. On 02.09.2021, this Court issued notice of motion for 20.09.2021 and the respondents were directed to file an affidavit stating therein as to whether, other than the alleged disclosure statement made in police custody, any other evidence has been gathered against the petitioner or not.

On 24.11.2021, eventually, a reply dated 23.11.2021 was filed stating that the petitioner was named as the person from whom a large quantity of intoxicating drugs was purchased by Balwinder Singh and Jaspal Singh and as per the disclosure statements made by the said two accused, the contraband was actually recovered from Balwinder Singh. It was also

averred that a communication has been issued to the manufacturer of the concerned drugs, which is a company located at Gurgaon and upon receipt of such information, further investigation would be conducted.

Since, as per the stand taken by the respondents, there seemed no other evidence against the petitioner other than the disclosure statements allegedly made in police custody, by the co-accused, this Court vide order dated 07.01.2022 granted interim bail to the petitioner with a further direction to the respondents to file a status report explaining as to what was determined as regards the drugs in question, from the manufacturer thereof, as also stating anything else as is necessary in terms of the investigation carried out.

Status report dated 10.11.2022 has been filed by DSP, Attari, Amritsar Rural in compliance to the orders dated 07.01.2022 and 29.08.2022, para 6 thereof being relevant, reads as under:-

“6. That it is submitted that since the challan and supplementary challan of the present case FIR No.138/2020 (supra) qua other co-accused person and present petitioner had already been presented before the Ld. Court. Hence the police official who had appeared before this Hon’ble Court on the last date of hearing on 29.08.2022 had made statement inadvertently that the petitioner is not required. However, since the details of actual consignee of the contraband could not be ascertained from the actual manufacturer and on the basis of the investigation carried out in this case, it revealed that the intoxicant tablets, recovered from co-accused persons in this case, were supplied to them by the petitioner and the quantity of the contraband falls in the category of commercial quantity, hence, rigors of Section 37(i)(b) of the NDPS Act are applicable in the present case and as the petitioner is also involved in

another FIR No.107, dated 2.10.2018, under Section 21, 22 NDPS Act, PS Gharinda, Amritsar Rural, the petitioner is not entitled to the discretionary relief of anticipatory bail...”

In view of the above stand taken by learned State counsel that the petitioner is still required for custodial interrogation as the intoxicant tablets recovered from the co-accused were actually supplied by the petitioner and its quantity attracts the rigors of Section 37(i)(b) of the NDPS Act, more particularly when the petitioner has been found involved in another FIR under the NDPS Act, this Court does not deem it appropriate to grant him the concession of anticipatory bail.

Consequently, the petition is dismissed.

23.01.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No