

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

CRM-M-41860-2023

Date of Decision:- 25.08.2023

RAJAT @ RAJAT KUMAR

....PETITIONER

VERSUS

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present:- Mr. Satnam Singh Gill, Advocate
for the petitioner(s).

Mr. Hitesh Pandit, Addl.A.G., Haryana.

DEEPAK SIBAL, J. (ORAL)

1. This is the second petition filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.1 dated 01.01.2023, registered under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Kurukshetra University, Kurukshetra, District Kurukshetra.
2. The first petition filed by the petitioner was CRM-M-6172-2023, Rajat @ Rajat Kumar Vs. State of Haryana, which was dismissed on 17.04.2023 through the following order:-

“The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.01 dated 01.01.2023 registered under Sections 15, 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – NDPS Act) at Police Station Kurukshetra Universtiy, District Kurukshetra.

Briefly stated, the case of the prosecution is that on 01.01.2023, on the basis of secret information the police arrested

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Jasbir Singh @ Jassi and Sohan Lal @ Sonu; from their conscious possession 50 kgs. 500 grams of poppy straw was recovered; their interrogation revealed that the recovered drugs were being transported on the asking of the petitioner; search of the vehicle in which the drugs had been recovered resulted in the recovery therefrom of the petitioner's driving license and that further investigation revealed that before the recovery of drugs the petitioner was in constant touch with Jasbir Singh @ Jassi and Sohan Lal @ Sonu on telephone.

On the basis of above, the petitioner was also nominated as an accused.

Learned counsel for the petitioner contends that the petitioner has been nominated as an accused only on the basis of disclosure statements of co-accused in police custody which statements have no evidentiary value; the petitioner was not arrested at the spot and that no drugs have been recovered from the petitioner.

Per contra learned State counsel submits that the petitioner's custodial interrogation is required as during their interrogation both Jasbir Singh @ Jassi and Sohan Lal @ Sonu have specifically stated that the recovered drugs were being transported at the behest of the petitioner; the petitioner has 02 other cases under the NDPS Act pending against him; the petitioner's driving license was found in the truck from which the drugs were recovered; the call details between the petitioner and co-accused Jasbir Singh @ Jassi and Sohan Lal @ Sonu clearly reveal that all 03 were in constant touch with each other before recovery of the drugs in question and that the owner of the truck from which the drugs have been recovered has also stated before the police that it was the petitioner who had hired the truck.

Learned counsel for the petitioner as well as learned State counsel have been heard and with their able assistance record of the case has also been perused.

Commercial quantity of the drugs has been recovered from a truck in which the co-accused Jasbir Singh @ Jassi and Sohan Lal @ Sonu were found present; during the course of their interrogation both co-accused Jasbir Singh @ Jassi and Sohan Lal @ Sonu have allegedly stated that it is at the behest of the

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petitioner that they were carrying the recovered drugs; allegedly before the drugs were recovered by the police there are several calls exchanged between the petitioner and both the afore named co-accused; the petitioner is involved in 02 other cases under the NDPS Act; the petitioner's driving license has been allegedly recovered from the truck from which the drugs have been recovered and that the owner of the truck has allegedly stated before the police that it was the petitioner who had hired the truck in question.

In the light of the above this Court is of the opinion that the petitioner's custodial interrogation is necessary.

Dismissed."

3. Through the instant petition, without there being any change in circumstance, the petitioner has again approached this Court for the same relief which he could not secure on the earlier occasion.

4. Through order dated 16.12.2021 passed in ***Special Leave Petition No.9449 of 2021 – Md. Shamim Khan Vs. The State of Jharkhand***, the Supreme Court has deprecated the practice of filing of consequent petitions under Section 438 Cr.P.C. after the rejection of the earlier ones without there being any change in circumstance.

5. Dismissed.

25.08.2023

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**(DEEPAK SIBAL)
JUDGE**

Whether reasoned/speaking?

Yes

Whether reportable?

No