

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-46551-2022 (O&M)
Date of decision: 17.01.2023

TASEVEER @ MONU

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Davneet Sangwan, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG Haryana.

AMAN CHAUDHARY. J.

The present petition under Section 438 Cr.P.C. has been filed seeking anticipatory bail to the petitioner in case FIR No.83 dated 12.04.2021, registered under Section 21 and 29 of NDPS Act at Police Station Farakpur, District Yamuna Nagar.

As per prosecution version, while the police officials were present on Naka Joria in connection with patrolling, a secret information was received that Shubham alias Vijay is indulged in selling smack and he is standing near Joria Sahab Gurudwara. Upon the signal of secret informant, co-accused Shubham alias Vijay was apprehended. On search conducted after due procedure, 7 gram smack was recovered and during investigation, co-accused Shubham @ Vijay suffered disclosure statement that he had purchased the contraband from accused Taseveer @ Monu.

Learned counsel for the petitioner has vehemently contended that the

petitioner has been falsely implicated in this case. He has submitted that the petitioner is nowhere named in the FIR registered, however, subsequently, he has been implicated in this case on the basis of disclosure statement of co-accused Shubham @ Vijay. 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.

Learned State counsel opposes the prayer on the ground that the co-accused, from whom the recovery was effected had named the petitioner stating that he had purchased the said contraband from the petitioner. Custodial interrogation of the petitioner is required in the instant case to find the source of origin and the entire chain of supply of contraband.

Heard.

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.”

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.”

Hon'ble The Supreme Court of India in catena of judgments has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors likely gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice. In the case in hand, the name of the petitioner has surfaced based on the disclosure statements of co-accused, Shubham @ Vijay, who was apprehended at the spot and recovery of the contraband was effected from him. He had categorically disclosed that he had purchased the said contraband from the petitioner. The sole ground taken by the petitioner for grant of anticipatory bail that the disclosure

statement of co-accused is inadmissible, has no force, as per the decisions of Hon'ble The Supreme Court of India in the cases of **Prabhulal** and **Samarth Kumar** (supra). Thus, the allegations against the petitioner call for a deeper probe, to unearth the modus operandi, source of origin, chain of supply and also to find out the involvement of other persons therein, so as to also eradicate the menace of drug proliferating, for which the custodial interrogation of the petitioner is required. The grant of pre-arrest bail in the present case shall be detrimental to the investigation.

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.

Keeping in view the aforesaid, 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

January 17, 2023

M.Kamra/S.Sharma(syr)

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