

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CRM-M-47432-2022 (O&M)

Date of decision: 18.01.2023

SAHIL KATHURIA

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. K.P. Singh, 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.628 dated 18.06.2022, registered under Section 22 of NDPS Act (Section 22(c) and 27(a) of NDPS has been added later on) at Police Station Barwala, District Hisar.

As per prosecution version, while the police officials were present at Old Bus Stand, Barwala, in connection with checking of narcotic substance duty. At that time, they received an information that Dr. Raj Kumar son of Mer Singh, resident of Sarheda, who runs a shop in the name of Juneja Modern Pharmacy, at Daulatpur T Point Chowk, Barwala and he sells prohibited intoxicating medicines and if an immediate raid be conducted, he can be caught red handed. After that, raiding party was formed and other officials reached at the place of secret information. On search conducted after due procedure, 10 boxes of prohibited drug pills Tramadol Hydrochlorides Tablets 100 mg i.e. total 2000 pills were recovered, which fall in commercial quantity. During investigation, co-accused Raj Kumar has disclosed that he has purchased these drug pills from the accused

Kuldeep Singh from his shop Bhardwaj Medical Store, Barwala and during further investigation, accused Kuldeep Singh has disclosed that he has purchased these drug pills from the petitioner Sahil at his shop Bhardwaj Medical Store, Barwala.

Learned counsel would contend that the petitioner is a licensed chemist and was not named in the FIR, and he was nominated on basis of the disclosure statements of co-accused Kuldeep Singh, who was arrested on the disclosure statement suffered by co-accused Raj Kumar. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He has not been named in the FIR and no specific role has been attributed to him. Petitioner's name came in the disclosure statement of co-accused, which is per se not admissible in evidence and no recovery has been effected from him. 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.

Learned State counsel opposes the prayer on the ground that the co-accused Kuldeep Singh, who had named the petitioner to be the supplier of drug pills, had stated that he had purchased the said contraband from the petitioner as recovered from co-accused Raj Kumar, who had stated that he purchased from Kuldeep Singh. Custodial interrogation of the petitioner is necessary so as to complete the chain of supply and also to ascertain the persons who are involved in the trade of drugs. In case, the petitioner is granted the concession of anticipatory bail then prejudice would be caused to the case of the prosecution.

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.”

In the case in hand, the name of the petitioner has surfaced based on the disclosure statements of co-accused, Kuldeep Singh, who was arrested on the disclosure statement suffered by accused Raj Kumar. He had categorically disclosed that he had purchased the said contraband from the petitioner, he being a supplier of the drug pills. 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 18, 2023
M.Kamra/S.Sharma(syr)

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