

211

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

**CRM-M-51135-2022
Date of Decision: 09.01.2023**

Vijay Pal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Dheeraj Narula, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER J. (ORAL)

The present petition under Section 438 Cr.P.C. has been filed for grant of anticipatory bail to the petitioner in case FIR No.526 dated 13.10.2022 (Annexure P-1), under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Sadar Sirsa, District Sirsa (Haryana).

On 18.11.2022, the following order was passed by this Court :-

“CRM-43967-2022

This is an application for placing on record the copy of order dated 17.07.2019 passed by learned Additional Sessions Judge, Sirsa as Annexure P-3.

Criminal Misc. Application is allowed, as prayed for. Annexure P-3 is taken on record, subject to all just exceptions.

CRM-M-51135-2022

Prayer in this petition, filed under Section 438

of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.526 dated 13.10.2022, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sadar Sirsa, District Sirsa (Haryana).

Learned counsel for the petitioner submits that the recovery in the present case is 8.90 grams of heroin, which has been effected from one Ramesh Kumar alias Ghinu, who is the main accused. The petitioner has falsely been implicated in the FIR in question as his name has surfaced in the disclosure statement made by said Ramesh Kumar alias Ghinu. He further submits that except the present case, one another case i.e. FIR No.128 dated 05.06.2019 registered at Police Station Sirsa Sadar, District Sirsa under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 is there against the petitioner, wherein, he has been granted bail by learned Additional Sessions Judge, Sirsa, vide order dated 17.07.2019, annexed as Annexure P-3. Learned counsel further submits that in the present case, the petitioner is ready and willing to join investigation as and when required by the Investigating Agency.

Notice of motion.

On the asking of the Court, Mr. Amrik Narwal, Deputy Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for interim protection on the ground that he is a habitual offender and is involved in another case under the NDPS Act.

Keeping in view the fact that no recovery was made from the petitioner and his name had figured in a disclosure statement of accused Ramesh Kumar alias Ghinu son of Bhura Ram, from whom 8.90 grams of

heroin was recovered and such quantity (8.90 grams heroin) being non-commercial quantity and rigors of Section 37 of NDPS Act being not attracted; this Court is inclined to grant interim bail to the petitioner.

List on 09.01.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, he shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, petitioner has joined the investigation.

Learned State counsel, on instructions from A.S.I. Satpal Singh, has not disputed the aforesaid fact of joining the investigation by petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the *ad-interim* order dated 18.11.2022, passed by this Court, is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

09.01.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No