

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

**CRM-M-50974-2022
Date of Decision: 09.01.2023**

Amandeep @ Goli

..... 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.696 dated 29.08.2022 (Annexure P-1), under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station City Sirsa, District Sirsa (Haryana).

On 21.11.2022, the following order was passed by this Court :-

“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.696 dated 29.08.2022, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station City Sirsa, District Sirsa (Haryana).

Learned counsel for the petitioner, inter alia, submits that the recovery in the present case is 10.60 grams of heroin, which has been effected from Kuldip alias Kali, Sanjay, Jitender, Deepak, who are the main accused. The petitioner has falsely been implicated in the FIR in question and his name had surfaced in the disclosure statement made by main accused, who were apprehended on the spot. He further submits that the petitioner was never apprehended on the spot and nothing is to be recovered from him. Learned counsel further submits that even the main accused namely, Sanjay and Jitender, from whom the recovery of contraband was effected, have already been granted regular bail vide order dated 14.10.2022 and the third accused namely, Kuldeep alias Kali has been released on regular bail vide order dated 18.10.2022 by the learned Sessions Judge, Sirsa. He further submits that except the present case, two other cases i.e. FIR No. 316 dated 23.04.2022 under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act and FIR No.593 dated 31.10.2021 under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Sirsa City, District Sirsa, are there against the petitioner, wherein, he has been granted bail by learned Additional Sessions Judge, Sirsa vide orders dated 27.05.2022 and 30.11.2021 passed by learned Additional Sessions Judge, Sirsa, annexed as Annexures P-5 and P-6. Learned counsel further submits that there is non-compliance of Section 50 of the Narcotic Drugs and Psychotropic Substances Act and the alleged recovery in the present case falls under non-commercial quantity. He also submits that 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. Ram Kumar Singla, 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 anticipatory bail on the ground that he is a habitual offender and is involved in other two cases 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 Kuldip alias Kali, Sanjay, Jitender, Deepak, from whom 10.60 grams of heroin was recovered and such quantity (10.60 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. Inder 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 21.11.2022, 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