

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M 51572 of 2022

Date of Decision: 11.05.2023

Krishan Kumar

.....*Petitioner*

Versus

State of Punjab

.....*Respondent*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. G.S. Gill, Advocate for
Mr. P.S. Sekhon, Advocate for the petitioner.

Ms. Himani Arora, AAG, Punjab.

GURBIR SINGH, J (ORAL)

The prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case bearing FIR No.89, dated 17.07.2022, under Section 15 and 29 of NDPS Act, registered at Police Station Boha, District Mansa.

On 10.11.2022, the following order was passed:-

'Apprehending his arrest in FIR No.89 dated 17.07.2022, registered under Sections 15 and 29 of NDPS Act 1985 at Police Station Boha, District Mansa, petitioner seeks pre-arrest bail.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been nominated on the basis of disclosure suffered by one Tinku Singh who was apprehended and on search a bag containing 2 kg 700 gram of poppy husk was recovered. The said Tinku Singh during interrogation suffered disclosure to the effect that the source of the said contraband was the petitioner. Consequently, the petitioner has been nominated under Section 29 of the NDPS Act. He further submits that there is a dispute between the petitioner and Tinku Singh and in order to victimize the petitioner, he has been nominated by him. He further relies upon an interim order dated 11.10.2022 passed by the Apex Court in ***Special Leave to Appeal (Criminal) No.6744/2022 titled as "Prabhulal Vs. Central Bureau of Narcotics"*** wherein in

somewhat similar circumstances, Apex Court granted interim protection to the petitioner observing as under :-

“Learned counsel for the petitioner submits that except to the statement of Chowkidar who has stated that the contraband was uploaded in the truck by the petitioner there is no other supporting evidence on record in reference to which the petitioner has been implicated in the commission of Crime No. 08/2021 under Section 8/15, 25, 29 of the NDPS Act registered at Police Station CBN, Neemuch.

Issue notice, returnable on 15.11.2022.

Dasti, in addition, is permitted.

Let standing counsel for the Central Bureau of Narcotics be served, in addition.

In the meanwhile, there shall be stay on arrest of the petitioner in reference to Crime NO. 08/2021 registered at police station CBN, NEEMUCH, Distt. Neemuch, M.P.”

Counsel for the petitioner further submits that in ***State of Haryana Vs. Samarth Kumar (2022) 3 RCR Cri.991***, the contraband was of commercial quantity wherein rigours of Section 37 of the NDPS Act were applicable. However, in the present case, keeping in view that the contraband recovered from the co-accused is intermediate quantity much less than the commercial quantity and thus rigours as contained in Section 37 of the NDPS Act, will not be applicable.

Notice of motion returnable for 27.03.2023.

On the asking of the Court, Mr. Arun Gupta, AAG, Punjab, appears and accepts notice on behalf of the respondent-State.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the arresting officer/Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C. The petitioner shall also remain bound by the following conditions :-

- (i) The petitioner shall not change his mobile number.*
- (ii) He shall report to the concerned Police Station every day.*
- (iii) The petitioner shall not indulge in any illegal activity.*
- (iv) The petitioner, if called by the authorities shall join the investigation.'*

Learned State counsel, on instructions from ASI Sukhdev Singh, states that in compliance of order dated 10.11.2022, the petitioner has already joined the investigation and he is not required for any custodial interrogation.

In view of the above, the order dated 10.11.2022 granting

interim bail to the petitioner, is made absolute. The petitioner shall abide by all the conditions as laid down under Section 438(2) Cr.P.C. in letter and spirit.

Petition is disposed of accordingly.

22.05.2023
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(GURBIR SINGH)
JUDGE

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