

206

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

CRM-M-52677-2022 (O&M)

Date of Decision: 10.01.2023

JAGDISH PRASAD

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. K.S. Siwach, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER, J. (Oral)

CRM-45922-2022

The instant application has been filed under Section 482 Cr.P.C with a prayer for adding Section 31 of NDPS Act in the head note as well as in the prayer clause of the main petition.

Learned counsel for the applicant-petitioner submits that he does not want to press the instant application.

Dismissed as not pressed.

CRM-M-52677-2022

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.201 dated 20.09.2022, registered under Sections 15 and 27-A (Act No.61) of Narcotic Drugs and Psychotropic Substances Act 1985, at Police Station Bhattu Kalan, District Fatehabad.

On 30.11.2022, 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.201 dated 20.09.2022, registered under Sections 15 and 27-A (Act No.61) of Narcotic Drugs and Psychotropic Substances Act 1985, at Police Station Bhattu Kalan, District Fatehabad.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The petitioner was not named in the FIR and he has been nominated as an accused on the basis of the second disclosure statement of co-accused, namely, Ramesh Kumar @ Momli. The petitioner was neither arrested at the spot nor any recovery was effected from him. It is submitted that when no recovery has been effected from the petitioner then applicability of Section 27-A is questionable in this case. The alleged recovery effected in the present case, was from co-accused and the same is non-commercial quantity and thus, rigors of Section 37 of the NDPS Act are not attracted in the present case. It is also submitted that co-accused namely Ramesh Kumar @ Momli and Nathu Ram have been granted concession of regular bail, vide order dated 14.11.2022, passed by Additional Sessions Judge, Fatehabad. It is further submitted that the petitioner is ready and willing to join the investigation subject to conditions imposed by this Court or trial Court.

Notice of motion.

On asking of the Court Mr. Amrik Narwal, DAG, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State of Haryana.

Learned counsel for the petitioner is directed to hand over a complete set of paper-book of this case to learned State counsel during the course of the day.

Adjourned to 10.01.2023.

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, the petitioner has joined the investigation.

Learned State counsel on instructions from ASI Jaibir Singh has not disputed the aforesaid fact of joining the investigation by the 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 30.11.2022 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.

It is made clear that if the petitioner fails to comply with any of the directions made above and the bail conditions, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

10.01.2023
Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No