

206

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-54209-2022
Date of Decision: 25.01.2023

Sewa Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

Mr. Amrik Narwal, DAG, Haryana
for the respondent/State.

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.442 dated 23.10.2022 (Annexure P-1), under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Sadar Pehowa, District Kurukshetra.

On 29.11.2022, the following order was passed by this Court :-

“CRM-45606-2022:

Present application is filed for placing on record the judgments of acquittal passed by the learned Courts below in the cases registered against the petitioner, as Annexures P-4 and P-5.

For the reasons mentioned in the application, the same is allowed and the judgments of acquittal, being Annexures P-4 and P-5, passed by the learned Courts below in the cases registered against the petitioner are taken on record, subject to all just exceptions.

CRM-M-54209-2022:

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.442 dated 23.10.2022 (Annexure P-1), under Section 18 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (for brevity, 'the Act'), registered at Police Station Sadar Pehowa, District Kurukshetra.

Learned counsel for the petitioner submits that the petitioner was not even named in the present FIR and he has been involved in this case only on the basis of disclosure statement of Jodh Bir, who was apprehended with 200 grams of Opium, which is also non-commercial quantity, and rigours of Section 37 of the Act are not attracted. Learned counsel further submits that neither the petitioner was found present at the spot nor any recovery has been effected from him. It is further submitted that the petitioner has been falsely implicated in the present FIR only due to the pressure of police officials and in respect of the two other cases, i.e. FIR No.16 dated 03.02.2014 and FIR No.18 dated 25.03.2017, learned counsel refers to Annexures P-4 and P-5, whereby petitioner was acquitted in the aforesaid cases. Even otherwise, the veracity of disclosure statement shall be considered at the time of trial. It is also contended by learned counsel that the petitioner is ready and willing to join the investigation.

Notice of motion.

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

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.

List on 15.12.2022.

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 Assistant Sub Inspector Surender Kumar, 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, order dated 29.11.2022, 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 issued 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.

Present petition is accordingly disposed of.

25.01.2023

Apurva

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |