

CRM-M-53220-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.102

CRM-M-53220-2023
Date of decision:19.10.2023

Sandeep Singh

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr.Harjinder Singh, Advocate for the petitioner.

N.S. SHEKHAWAT, J.

1. Petitioner prays for grant of pre-arrest bail in FIR No.29 dated 04.06.2023 registered under Sections 21 of the NPDS Act (Section 29 of the NDPS Act added later on) at Police Station, Talwandi Chaudharian, District Kapurthala.

2. The FIR in the present case was registered on the basis of the statement made by SI Jasbir Singh. As per the complainant, on 04.06.2023, he along with other police officials were present for patrolling, a secret informer came and informed that Amandeep Singh son of Harnek Singh, who was having the business of selling the intoxicant substances, was coming in his Verna Car from the side of village Channa Sher Wali and in case a barricade was set up, he could be apprehended. In the meantime, a car was seen coming from the opposite side and the complainant indicated the driver of the car to stop with the help of torch but he tried to run over the police team. The complainant with the help of other police officials stopped the car and there were two persons in the car and on asking by the police,

they disclosed their names and addresses to be Amandeep Singh son of Harnek Singh resident of Chhanna Sher Singh, P.S. Talwandi Chaudharian, District Kapurthala and Gagandeep Singh son of Harbans Singh resident of Baghia. On checking, 20 grams of heroin was recovered from their possession and the accused persons were arrested.

3. Learned counsel for the petitioner submits that the petitioner is not named in the present FIR and the recovery of 20 grams of heroin has been shown from the co-accused Amandeep Singh and Gagandeep Singh. He further contends that the petitioner was neither present at the spot nor had any connection with the said co-accused. He further submits that the petitioner has been nominated as an accused on the basis of the disclosure statements suffered by the co-accused and the admissibility of the said evidence is yet to be adjudicated by the learned trial Court.

4. On an advance notice, learned counsel for the State, on the instructions from ASI Surinder, submits that five more following cases have already been registered against the present petitioner and he is a habitual offender:-

- (i) FIR No.25 dated 15.02.2018 under Sections 61/1/14 of the Excise Act registered at P.S. Talwandi Chaudharian, District Kapurthala;
- (ii) FIR No.116 dated 18.10.2018 under Sections 22/61/85 of the NDPS Act registered at P.S. Talwandi Chaudharian, Kapurthala;
- (iii) FIR No.157 dated 23.07.2019 under Sections 61/1/14 of the Excise Act, registered at P.S. Sultanpur Lodhi, District Kapurthala;
- (iv) FIR No.47 dated 21.4.2021 under Sections 21/22 of the NDPS Act registered at P.S. Jagraon, District Ludhiana.

(v) FIR No.74 dated 15.11.2022 under Sections 21/22 of the NDPS Act registered at P.S. Talwandi Chaudhariyan, Kapurthala.

5. Learned counsel for the State also relies upon the judgment passed by the Hon'ble Supreme Court in the matter of **The State of Haryana Vs. Samarth Kumar, 2022 Live Law (SC) 622**, which reads as under:-

4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in Tofan Singh vs. State of Tamil Nadu reported in (2021) 4 SCC 1.

5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.

7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court.

Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.

8. *In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh vs. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.”*

6. I have heard the learned counsel for the parties and perused the case file minutely.

7. The main contention raised on behalf of the learned counsel for the petitioner is that the petitioner has not been named in the FIR and has been nominated as an accused on the basis of the disclosure statements made by the co-accused. In fact Hon’ble the Supreme Court, in similar circumstances, held that the accused may be able to take advantage of such a plea only at the time of arguing the regular bail or at the time of final hearing after conclusion of the trial and grant of anticipatory bail in a case of this nature is not really warranted. Apart from that, it is apparent that the petitioner is also involved in five more cases as noted above and out of these five cases, three cases have been registered under the NDPS Act and thus, it appears that he is a habitual offender. Consequently, the petitioner does not deserve the concession of anticipatory bail at this stage.

8. In view of the above, the present petition stands dismissed.

(N.S. SHEKHAWAT)
JUDGE

19.10.2023
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO