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

CRM-M-56944-2022
Date of Decision: 23.03.2023

Jagdev Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Rajesh Bhatehja, Advocate for
for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.216 dated 25.09.2022, registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Baghapurana, District Moga (Annexure P-1).

On 02.02.2023 the following order was passed by this Court :-

“Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, is for grant of anticipatory bail to the petitioner in case FIR No.216 dated 25.09.2022 registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances, 1985, registered at Police Station Baghapurana, District Moga (Annexure P-1).

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the

present FIR. Learned counsel for the petitioner further submits that the petitioner has been nominated as an accused on the basis of the disclosure statement of co-accused Dharampreet Singh @ Preet from whom the alleged contraband was recovered. As per the FSL report, salt Alprazolam has been found in the above said tablets recovered from the said Dharampreet @ Preet with average weight of 125 mg per tablet and total weight of 75 grams which falls within the ambit of non-commercial quantity, therefore, Section 37 is not attracted herewith. It is submitted that the petitioner is not named in the FIR and also nothing has been recovered from him. He further submits that the petitioner is not concerned with the alleged occurrence. It is further submitted that the main accused has already been granted interim bail by Special Court, Moga vide order dated 02.12.2022, a copy whereof has been handed over in Court today and the same is taken on record, subject to all just exceptions. Learned counsel also submits that the alleged recovery has been effected from main accused, yet the bail application moved by the petitioner under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Special Court, Moga, vide its order dated 25.11.2022. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

Learned counsel appearing on behalf of the State opposes the petitioner's plea for bail on the ground of seriousness of the offence, however, it is not disputed by learned State counsel that recovery already stands effected from the main accused and main accused Dharampreet Singh @ Preet has been granted regular bail.

List on 23.03.2023.

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 Head Constable Harjeet Singh has not disputed the aforesaid fact of joining of 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 02.02.2023 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 fail to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, 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.

23.03.2023

Himani

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No