

210 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
CHANDIGARH
CRM-M-56333-2023 (O&M)
Date of Decision: 19.12.2023

...Petitioner

V/S

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Through instant petition, the petitioner is seeking anticipatory bail in case FIR No. 150 dated 30.09.2023 registered under Sections 15(c) and 29 of the NDPS Act at Police Station Jaitu District Faridkot.
2. On 08.11.2023, following order was passed:

“The present petition has been filed under Section 438 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C) for grant of anticipatory bail to the petitioner in FIR No.150 dated 30.09.2023 registered under Section 15(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Jaitu District Faridkot.

Learned counsel for the petitioner inter alia contends that Section 15 of the NDPS Act pre-supposes the conscious possession and there is no evidence to even remotely suggest that any contraband has been recovered from the conscious possession of the petitioner. The petitioner has been implicated only on the basis of disclosure statement of co-accused made on 02.10.2023 before the Police, which is not admissible

under the law. Learned counsel further contends that petitioner has clean antecedents and is not involved in any other case.

Notice of motion.

On the asking of Court, Ms. Navreet Kaur Barnala, AAG Punjab, accepts notice on behalf of the respondent-State and opposes the prayer for grant of anticipatory bail to the petitioner.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352** at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 23.11.2023 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 19.12.2023.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court."

submits that in compliance of order dated 08.11.2023 passed by this Court, the petitioner has joined the investigation on 20.11.2023 and is not required for further custodial interrogation.

4. Keeping in view the statement made by learned State Counsel the order dated 08.11.2023, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.
5. The petition is accordingly allowed.

19.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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