

CRM-M-57219-2023
Date of decision: 16.12.2023

Gurjeet Singh

State of Punjab ...Respondent

Present: Ms. Riffi Birla, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in a case bearing FIR No.271 dated 30.08.2023 under Section 21 of the NDPS Act, 1985 and Section 25 of Arms Act, 1959 registered at Police Station Special Task Force, District STF Wing (Annexure P-1).

On 20.11.2023, the following order was passed:-

‘...The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C) for grant of anticipatory bail to the petitioner in FIR No.271 dated 30.08.2023 registered under Section 21 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station Special Task Force, District STF Wing.

Learned counsel for the petitioner, inter alia, contends that the present FIR was lodged on the basis of secret information in pursuance of which co-accused namely Dharampreet Singh and Gurpreet Singh @ Gopi were apprehended whereas the petitioner herein succeeded in

fleeing away. It is alleged that one pistol and 200 grams of heroin was recovered from them. There is nothing on record to indicate conscious possession of the petitioner, which is sine qua non for invoking Section 21 of the NDPS Act. It is also contended that the co-accused Dharampreet Singh and Gurpreet Singh @ Gopi have already been granted concession of regular bail by the learned Judge, Special Court, Ferozepur vide order dated 10.10.2023.

Notice of motion.

On the asking of the Court, Ms. Navreet Kaur Barnala, AAG, Punjab, who is present in Court, 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; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 30.11.2023 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

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petitioner in investigation, in terms of the order of this Court.

Adjourned to 16.12.2023.

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 '

Learned State counsel on instructions from ASI Balkar Singh, at the very outset informs the Court that the petitioner has joined the investigation on 30.11.2023 and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 20.11.2023 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

16.12.2023

Neha

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