

201 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-60401-2022
Date of Decision: 20.04.2023

Hardeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J. (ORAL)

Petitioner (Hardeep Singh) has filed the present petition under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail in case FIR No.11 dated 12.04.2022 (Annexure P-1), under Sections 18, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station State Special Operations Cell, Amritsar, District Amritsar.

2. On 23.02.2023, the following order was passed by this Court :-

“Present petition under Section 438 of the Code of Criminal Procedure is filed for grant of anticipatory bail to the petitioner in case FIR No.11 dated 12.04.2022 (Annexure P-1), under Sections 18, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station State Special Operations Cell, Amritsar, District

Amritsar.

Succinctly, facts of the case are that the aforesaid FIR (Annexure P-1) was registered on the basis of a secret information that two persons, namely Sukhdev Singh s/o Roor Singh and Raju s/o Boota Singh, both residents of Kotla Sultan Singh, Amritsar, used to bring opium in heavy quantity in their truck, in an illegal manner, from Manipur to Imphal to supply the same to the local customers on large scale in Amritsar, Tarn Taran, Gurdaspur and other cities of Punjab and on the date of occurrence (12.04.2022), the aforesaid persons would be coming to Amritsar in their truck bearing registration No. PB 22-8258, by hiding the opium in heavy quantity in the said truck; and in case, barricades are set up in a planned manner on the G.T. Road, Amritsar-Jalandhar then the aforesaid persons can be apprehended with heavy quantity of opium. Upon finding the aforesaid information to be true, the same was brought to the notice of Officers, who gave directions to Sub Inspector Kuljit Singh to take action accordingly. Pursuant thereto, the information was written down and thereafter the present FIR (Annexure P-1) was registered.

Learned counsel for the petitioner submits that the present FIR (Annexure P-1) was registered against two persons, namely Sukhdev Singh and Raju, who were apprehended with the truck containing 9 kg. of opium, on the basis of a secret information. Learned counsel further submits that the petitioner was neither present at the alleged spot of occurrence nor any contraband has been recovered from his conscious possession. It is further submitted that initially the petitioner was not named in the present FIR (Annexure P-1) and he has been falsely implicated in this case only on the basis of alleged disclosure statement of co-accused, namely Sukhdev Singh. Learned counsel contends that except the said disclosure statement, there is no other evidence on record to link the petitioner with the alleged crime. It is further

contended that the petitioner has been arrayed as an accused in the instant case only on account of political rivalry in the area as he is a supporter of the Shiromani Akali Dal Party and he has remained Sarpanch of the village from the year 1993 to 2003, thereafter, his wife also remained Sarpanch of the village from the year 2003 to 2008; and the petitioner has also remained Block Smiti Member, Market Committee Majitha. Learned counsel contends that there is no link between the petitioner and the co-accused nor there is any conversation of any manner between them. Learned counsel for the petitioner states that the petitioner is a senior citizen of around 69 years of age and he is not involved in any other case, except one FIR, which was registered against him way back in the year 1991, wherein he was acquitted in the year 1997. It is stated that the anticipatory bail application moved by the petitioner before the Court of Judge Special Court, Amritsar, has wrongly been dismissed, vide order dated 13.12.2022 (Annexure P-2). Learned counsel for the petitioner submits that the petitioner is ready and willing to join the investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

Per contra, learned State counsel has opposed the plea of petitioner on the ground of seriousness of the offences. However, he fairly concedes the fact that the petitioner was not initially named in the present FIR (Annexure P-1) nor any recovery has been effected from his conscious possession. It is also not disputed that the petitioner has been nominated as an accused in the present case on the basis of disclosure statement of co-accused, namely Sukhdev Singh, and he is not involved in any other case under the Narcotic Drugs and Psychotropic Substances Act, 1985.

As regards the link/conversation between the petitioner and co-accused, learned State counsel has referred to paragraph No.10 of the status report dated 04.02.2023, which is already on record. The same reads as under:-

“ - x - x -

10. That it is pertinent to submit here that during his custodial interrogation, the co-accused Sukhdev Singh had disclosed that the present petitioner Hardeep Singh used to make contact with him through WhatsApp calling for getting supply of opium and they never exchanged normal calling with each other. For this reason, no record i.e. C.D.R. qua the calls exchanged between the present petitioner Hardeep Singh and co-accused Sukhdev Singh could be made available.

- x - x -

”

List on 20.04.2023.

In the meanwhile, in the event of arrest of 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) of the Code of Criminal Procedure.”

3. Learned counsel for the petitioner submits that pursuant to the aforesaid order, petitioner has joined the investigation.
4. Learned State counsel, on instructions from Sub Inspector Sukhjinder Singh, has not disputed the aforesaid fact of joining the investigation by petitioner and submits that his custodial interrogation is not required at this stage.
5. Heard learned counsel for the parties.
6. Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, order dated 23.02.2023, passed by this Court, is made absolute.
7. 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) of the Code of Criminal Procedure.

8. 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.

9. Present petition is accordingly disposed of.

20.04.2023

Apurva

**(HARSH BUNGER)
JUDGE**

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