

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

CRM-M-58385-2023

Date of Decision: 20.11.2023

Vikram Singh alias Vicky

...Petitioner

vs.

State of Punjab

...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

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

Mr. Amish Sharma, Assistant Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant the anticipatory bail to him in case FIR No.49 dated 16.04.2023 under Sections 21/61/85 of NDPS Act, 1985 registered at Police Station Vairoke, District Fazilka.

2 The FIR in the present case was registered on the basis of the statement made by ASI Gurdeep Singh. As per the complainant, a police party was present with regard to checking of suspicious persons and one lady was seen coming on foot. She was carrying a transparent polythene bag in her right hand. On seeing the police party, she got perplexed and took a turn back. She was apprehended by the police and she disclosed her name and address as Paramjit Kaur wife of Surjit Singh, resident of Chak Balochan alias Mahalam. On search, 36 grams of heroin and Rs.15,000/- as drug money were recovered from her. Consequently, one FIR under Section 21 of NDPS Act was registered against her.

3. Learned counsel for the petitioner contends that the petitioner is neither named in the FIR nor she had any concern with the allegations levelled by the complainant in the present case. Even no recovery was ever effected from the present petitioner. The petitioner has been nominated as an accused on the basis of the disclosure statement suffered by the co-accused. Even there is no evidence to show that the petitioner was in touch with the main accused telephonically or there was any bank transaction between the parties.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and is already involved in six other cases including FIR No.45 dated 11.03.2021 under Section 376 IPC, P.S. Vairo Ke, FIR No.47 dated 11.03.2021 under Section 15 NDPS Act, P.S. Vairo Ke, FIR No.138 DATED 30.07.2022 under Sections 399, 402 of IPC, P.S.Vairo Ke, FIR No. 17 dated 01.02.2023 under Section 18 NDPS Act, P.S. Kesri Singh Pura (Rajasthan), FIR No.455 dated 12.09.2023 under Sections 8, 21, 29 of NDPS Act, P.S. Sadar Sriganganagar (Rajasthan), FIR No.282 dated 30.10.2023 under Sections 8, 21 NDPS Act, P.S. Hindumalkot Sriganganagar (Rajasthan). He further contends that not only in Punjab, but in Rajasthan also, the cases of smuggling of drugs have been registered against him. Learned State counsel has also relied upon the law laid down by the Hon'ble Supreme Court ***“State of Haryana Vs. Samarth Kumar”, 2022 LiveLaw (SC) 622***, wherein the Hon'ble Supreme Court held as follows:-

“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 v. 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 v. 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.”

5. I have heard learned counsel for the parties and perused the record.
6. It is apparent that in the present case, the co-accused Paramjit Kaur has already been arrested and from her, 36 grams of heroin and Rs.15,000/- as drugs money have already been recovered. From the statement made by learned State counsel, it is apparent that the present petitioner is a habitual offender, who is not only involved in four cases under NDPS Act, but he is also accused in other serious offences in two States.
7. Thus, keeping in view the submissions made by learned State counsel and in view the law laid down by the Hon'ble Supreme Court in the matter of *“State of Haryana Vs. Samarth Kumar's* case (Supra), the custodial interrogation of the petitioner will be required, at this stage to take the investigation to its logical end.
8. Thus, finding no merits in the present case and the same is ordered to be dismissed.

20.11.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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