

CRM-M-58690-2023

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-58690-2023 (O&M)

Date of Decision: 20.12.2023

GURPARTAP SINGH

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Wadhawan, 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. 193 dated 29.10.2023 registered under Sections 21, 27(A) of NDPS Act 1985 (Section 29 of NDPS Act 1985 added later on) at Police Station Lopoke, District Amritsar Rural.

2. On 21.11.2023, 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.193 dated 29.10.2023 registered under Section 21, 27(A) of the NDPS Act, 1985 (Section 29 of the NDPS Act, 1985 added later on) at Police Station Lopoke, District Amritsar Rural.

Learned counsel for the petitioner, inter alia, contends that as per the case set up by the prosecution, the alleged contraband was recovered from the possession of co-accused Harbhej Singh @ Kala. The petitioner has been implicated in the present case on the basis of disclosure statement made by the

aforementioned Harbhej Singh @ Kala, while he was in police custody. There is nothing on record against the petitioner to prove the conscious possession of the petitioner over the recovered contraband. The petitioner is not involved in any other case under the NDPS Act, 1985.

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 05.12.2023 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 20.12.2023.

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.”

3. Learned State counsel on instructions from ASI Kulwinder Singh, submits that in compliance of order dated 21.11.2023 passed by this Court, the petitioner has joined the investigation on 27.11.2023 and is not required for further custodial interrogation.
4. Keeping in view the statement made by learned State Counsel the order dated 21.11.2023, 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.

20.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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